

NEW JERSEY COASTAL MANAGEMENT PROGRAM : SUMMARY AND MANAGEMENT SYSTEM

REPRINTED FROM :

New Jersey Coastal Management Program
and Final Environmental Impact Statement
August, 1980



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1981

State of New Jersey
Department of Environmental Protection
Division of Coastal Resources
CN 401
Trenton, New Jersey 08625

NEW JERSEY COASTAL MANAGEMENT PROGRAM

AND

FINAL ENVIRONMENTAL IMPACT STATEMENT

Commissioner's Letter

Note to Reader/NEPA Summary

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STATE OF NEW JERSEY
OFFICE OF THE GOVERNOR
TRENTON
08625

BRENDAN T. BYRNE
GOVERNOR

Mr. Michael Glazer
Assistant Administrator for Coastal Zone Management
U.S. Department of Commerce
National Oceanic and Atmospheric Administration
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Dear Mr. Glazer:

The State of New Jersey submits the New Jersey Coastal Management Program for approval under Section 306 of the Federal Coastal Zone Management Act.

This program is the culmination of a six year process during which a wide range of agencies, interest groups and citizens have worked together to identify issues of concern, review draft recommendations and debate public policy on the coast. In the two years since New Jersey received federal approval of the Coastal Management Program for the Bay and Ocean Shore Segment, we have been able to dramatically improve the processes for coastal decision-making as well as the substance of those decisions. We have also learned from administering that approved program and have incorporated our experience this coastal management program for the State's entire coastal zone. In addition, new policies have been added to apply specifically to the more developed areas which are now part of the coastal zone.

I have reviewed this document and approved the management program for the New Jersey coastal zone as State policy. Accordingly, I have designated the Department of Environmental Protection as the single State agency to receive and administer implementation grants under Section 306 of the Coastal Zone Management Act.

I certify that the State of New Jersey has the legal authority necessary to implement the management program, and that the organizational structure necessary to implement the program is in place.

I believe that this coastal management program will enable the wise management of one of New Jersey's greatest assets, the coast.

Sincerely,

A large, stylized handwritten signature of Brendan T. Byrne in dark ink, written over the word 'GOVERNOR'.

GOVERNOR



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF THE COMMISSIONER
P. O. BOX 1390
TRENTON, N. J. 08625
609-292-2885

July 31, 1980

Dear Friend of the Coast:

I am proud to submit to you the New Jersey Coastal Management Program and final Environmental Impact Statement. Approval of this document completes the review process under Section 306 of the Federal Coastal Zone Management Act.

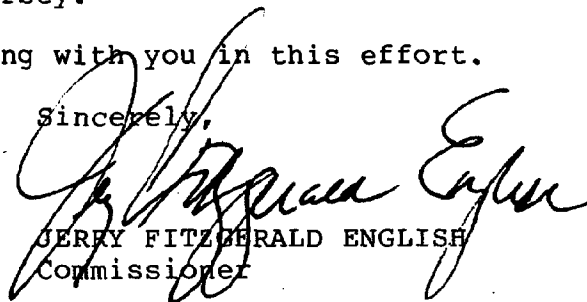
This program is based upon our experience administering the Coastal Management Program approved by the National Oceanic and Atmospheric Administration for the Bay and Ocean Shore Segment in September 1978, and six years of coastal management and planning. The program provides the substantive framework for Governor Byrne's Riverlands Renaissance Program, while also enabling New Jersey to continue balancing the many coastal interests and pressures to both protect sensitive resources and promote necessary development. New Jersey has already demonstrated that these two objectives need not be mutually exclusive.

The Department of Environmental Protection (DEP), as New Jersey's lead coastal agency, will continue to prepare publications and to hold public hearing and workshops throughout the state with a wide range of federal, state and local agencies, interest groups and citizens so that this Coastal Management Program is understood and fully used. In addition, I am committed to reviewing the Coastal Resource and Development Policies at least once each year to make necessary revisions and additions.

While federal approval of this coastal management program is a major accomplishment, it by no means concludes our coastal work. Rather, it provides a detailed framework through which we can all focus our efforts to address the range of crucial and complex coastal issues facing New Jersey.

I look forward to working with you in this effort.

Sincerely,


JERRY FITZGERALD ENGLISH
Commissioner

PART I - SUMMARY

Program Summary

Program History

Changes Program Will Make

Outside of the Bay and Ocean Shore Segment

In the Bay and Ocean Shore Segment

Integration of the Two Segments

Major Issues and Opportunities

Major Conclusions - Basic Coastal Policies

Federal Coastal Zone Management Act

Program Summary

The New Jersey Coastal Management Program has been prepared to determine and describe New Jersey's strategy to manage the future protection and development of the coast. The State of New Jersey is seeking approval of the Program by the U. S. Department of Commerce to obtain the benefits of the federal Coastal Zone Management Act, which will aid State efforts to manage the often conflicting pressures facing the coast.

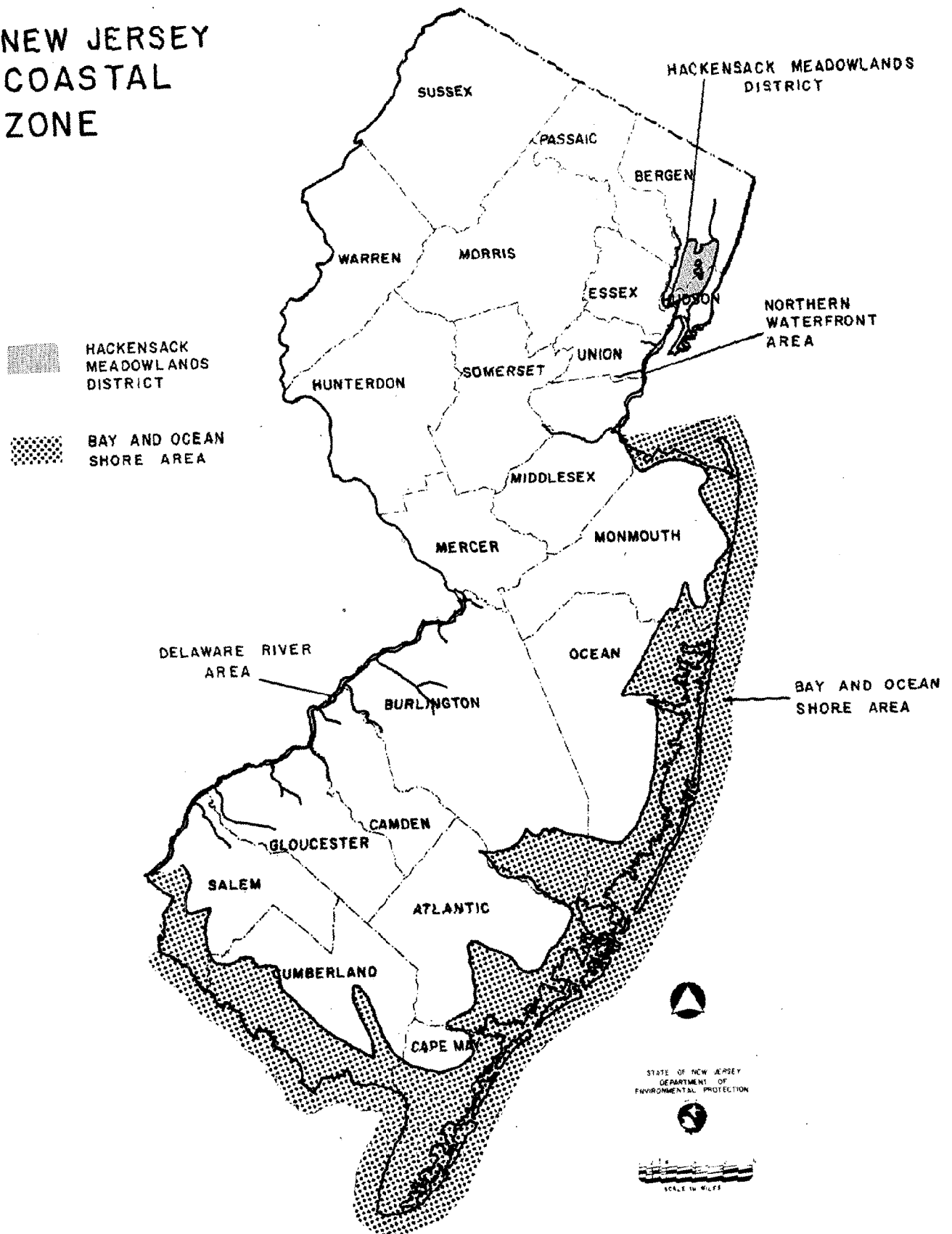
This document serves as a combined Coastal Management Program and as a Final Environmental Impact Statement, because federal approval of a state coastal management program is considered a "major action" requiring an environmental impact statement under the National Environmental Policy Act (NEPA). The New Jersey Department of Environmental Protection, Division of Coastal Resources (DEP-DCR) is preparing the Coastal Management Program in part with funding provided by the National Oceanic and Atmospheric Administration, Office of Coastal Zone Management (NOAA-OCZM).

New Jersey, along with other coastal states, is using the federal Coastal Zone Management Act of 1972, as amended, to prepare a program intended to promote the wise use of its coastal areas. The Governor has assigned this responsibility to the New Jersey Department of Environmental Protection (DEP). The New Jersey program was developed in two parts. The first part, called the Bay and Ocean Shore Segment, begins at the Cheesequake Creek in Middlesex County, and includes the area south of Sandy Hook to the tip of Cape May and then north along the Delaware Bay to near the Delaware Memorial Bridge. The Coastal Management Program for this area received federal approval on September 29, 1978.

This Coastal Management Program and Final Environmental Impact Statement addresses New Jersey's entire coastal zone. It integrates the Coastal Management Program approved for New Jersey's Bay and Ocean Shore Segment by NOAA, with proposals for New Jersey's other tidally influenced waterfront areas in the northeastern part of the State along the Hudson River and related waters, and in the Hackensack Meadowlands, and in the southwestern part of the State along the Delaware River and its tributaries. These areas have been referred to as the "Developed Coast", a term which does not fully connote their diversity. While the coastal management program is designed to recognize regional as well as site specific differences, this document will avoid use of the phrase "Developed Coast", referring instead to the "Bay and Ocean Shore area", "Delaware River Area", "Northern Waterfront Area", and "Hackensack Meadowlands", the specific counties, municipalities or water bodies of concern, or to "the coastal areas outside of the Bay and Ocean Shore Segment" (See Figure 1).

Figure 1

NEW JERSEY COASTAL ZONE



This document defines and explains the Coastal Resource and Development Policies and the management system the New Jersey Department of Environmental Protection, the New Jersey Department of Energy (NJDOE), and the Hackensack Meadowlands Development Commission (HMDC) will use in managing activities in this Coastal Program. The Coastal Policies are divided into three groups: (1) Location Policies evaluate specific types of coastal locations, such as wetlands and prime farm land; (2) Use Policies are directed at different uses of the coastal zone, such as housing and energy facility development; and (3) Resource Policies focus on controlling the effects of development, such as water runoff and soil erosion, and on the protection of natural and cultural resources. The use of these three groups of policies to evaluate a proposed development is termed use of the Coastal Location Acceptability Method (CLAM).

The Coastal Management Program will be implemented through existing laws and agencies. The principal legal authority will be the coordinated use of the Coastal Area Facility Review Act (CAFRA), Wetlands, and Waterfront Development permit programs, shore protection program, tidelands management program, the regulatory activities of the Department of Energy and the Hackensack Meadowlands Development Commission, and the funding programs available under the federal Coastal Zone Management Act and through the New Jersey Green Acres Administration.

Program History

New Jersey's interest in its tidal waters precedes the American Revolution, for under the public trust doctrine of English common law, tidal waters and the lands thereunder belonged to the sovereign for the common use of all the people. With the Revolution, the royal rights to the State's tidelands became vested in the people of New Jersey. In 1821, the State Supreme Court in Arnold v. Mundy (6 N.J.L. 1) articulated the State's right to convey, regulate, improve and secure the tidelands for the common benefit of every individual citizen, but also determined that neither the State nor the purchaser or licensee of tidelands could impair the public's common rights of fishing and navigation in tidal waters. In 1869, the General Riparian Act was passed setting forth the procedure by which an administrative agency, then the Riparian Commissioners, could alienate State-owned tidelands. Subsequent State Supreme Court decisions have declared that because tidal lands are held in public trust, the State must consider the broad public interest and must receive adequate compensation for these lands.

In 1914, the State Legislature showed its first interest in regulating the land areas along tidal waters when it passed the Waterfront Development Law. The Law requires that prospective developers obtain State agency approval for "all plans for the development of any water-front upon any navigable water or stream of this State or bounding thereon ..." (N.J.S.A. 12:5-3).

The next major law affecting the State's coastal area was the Hackensack Meadowlands Reclamation and Development Act passed 55 years later in 1969. To ensure the orderly development of the Meadowlands District, the law created the Hackensack Meadowlands Development Commission, provided it with authority to regulate all forms of development within the District, and instructed it to develop a master plan for the District.

Concern about the environment of the State's coastal zone was reflected in the Wetlands Act of 1970. The Wetlands Act delegated authority to the newly created Department of Environmental Protection to delineate and regulate development in all coastal wetlands of the State from the Raritan River Basin southward.

The next major legislative advance in coastal zone management occurred in 1973 when the State passed the Coastal Area Facility Review Act (CAFRA) giving DEP authority to regulate major development in the Bay and Ocean Shore Segment of the coastal zone to preserve environmentally sensitive sites and ensure a rational pattern of development, and also requiring the Department to prepare a strategy for the management area by September, 1977.

In 1972, the U.S. Congress passed the Coastal Zone Management Act, declaring a national interest in the effective management, beneficial use, protection and development of the coastal zone, and encouraging and assisting the states to develop and implement management programs to achieve wise use of the land and water resources of the coastal zone. In response to this federal initiative, the State has been working since 1974 to prepare and obtain federal approval for a statewide coastal management program.

Because DEP, under CAFRA, had already prepared a coastal management strategy for the Bay and Ocean Shore area in 1977, DEP elected to seek federal approval of this segment first, and to then complete the boundary, policy and management system suitable for the remainder of the State's coastal zone. Between 1974 and 1978, the Department collected data and viewpoints, and met with interested groups throughout the State, which provided a foundation for the coastal management program for the segment and for the rest of the State. One end result was a comprehensive set of Coastal Resource and Development Policies to be used by the Department to ensure consistent and predictable permit decision-making in the coastal zone. These were adopted as Departmental rules effective September 28, 1978 and the Coastal Management Program for the Bay and Ocean Shore Segment received federal approval the next day.

The first step toward continuing the coastal management program into the more developed portions of the State was publication of Options for New Jersey's Developed Coast in March 1979. In the report, DEP candidly discussed the opportunities and choices available to New Jersey under the federal Coastal Zone Management Act, with a particular emphasis on the state's more developed coastal areas. This report served as a basis for public comment and discussion in the Spring and early Summer of 1979.

Publication of the Proposed New Jersey Coastal Management Program and Draft EIS was the second step. The third step was the public review and comment on it and on the Options report. DEP staff met with, and received comments from many residents and people representing federal, state, county and municipal elected representatives and agencies, regional planning groups, and interest groups with environmental, civic, residential, industrial development, and other concerns. In addition, NJDEP and NOAA-OCZM jointly held four formal public hearings on the State's proposed coastal management program on June 11 and 12 in Camden, Jersey City, Toms River and Trenton.

This Coastal Management Program is a tool for making decisions, but it is not a panacea. It is important to understand that this document is not a detailed, rigid plan indicating only one activity which can or should take place on each site, block, or acre in the coastal zone. New Jersey has deliberately designed a program which accommodates the creativity, interests, and initiative of individual land owners, developers, citizens, and others, and recognizes the State's historic commitment to a strong role for local governments in land use decision-making. The Program, therefore, focuses on coastal resource management decisions with greater than local significance that the Legislature has entrusted to State agencies. The Coastal Program provides enforceable policies to form predictable and consistent decisions which will best manage New Jersey's coast.

Major Conclusions - Basic Coastal Policies

The major conclusions of the New Jersey Coastal Management Program are summarized by eight proposed basic coastal policies. These policies are recommended objectives for all public and private land and water use decision-making in the coastal zone, and they summarize the direction of the legally binding, specific Coastal Resource and Development Policies included in Chapter Four of the description of the New Jersey Coastal Management Program (Part II of this FEIS).

1. Protect and Enhance the Coastal Ecosystem

Although severely stressed by centuries of use as a waste disposal area, the estuarine complex in developed coastal areas is showing some signs of recovery under the influence of recent federal and state water quality legislation and resulting waste treatment facility construction. Portions of the Hackensack Meadowlands, for example, are witnessing a return of species absent for many years due to poor water quality. While the industrial and commercial nature of the waterfront together with high population densities preclude reattainment of the pristine conditions of the distant past, it is not unreasonable to expect that ambient standards set under the Federal Clean Air Act and Federal Clean Water Act can be attained, that certain natural areas can be restored, and that the urban waterfront can once again provide recreational and employment opportunities for area residents.

The coastal ecosystem is fragile and special, and is characterized by a combination of beaches and the ocean, tidal and inland wetlands, flood plains, estuarine areas, bays, streams and stream corridors, vegetation communities and wildlife habitats. These natural features make the area a desirable place to visit, which in turn fosters the state's tourist industry. The same features make the coastal region a productive area for agriculture and commercial and recreational fishing. If the ecosystem is not protected, not only will natural resources and processes be harmed, but the economy of the area and of the state will suffer.

2. Concentrate Rather than Disperse the Pattern of Coastal Residential, Commercial, Industrial, and Resort Development and Encourage the Preservation of Open Space

The special characteristics of the coast attract many different types of development to an area which is limited in size. The concentration of development is the most efficient way to use this limited space because it allows a large variety of activities to be located in the coastal zone while minimizing conflicts which could occur between activities such as industry and housing if they were

located near each other. In addition, the concentration of development can provide large expanses of open space which can, in some areas, be more useful to the public than a similar amount of open space scattered among many small private parcels. The policy to concentrate development does not apply to nuclear generating stations and liquefied natural gas (LNG) facilities.

3. Employ a Method for Decision-Making Which Allows Each Coastal Location to be Evaluated in Terms of Both the Advantages and the Disadvantages It Offers for Development

Traditionally, land and water use planning has focused exclusively on environmental features which offer disadvantages for development or which should be preserved. Each location, however, can also be evaluated in terms of the advantages it offers for development. A site near existing roads, for example, could be developed with less coastal and environmental disturbance than a more isolated site. This policy insures that both types of factors will be considered in decision-making under the Coastal Management Program.

4. Protect the Health, Safety and Welfare of People who Reside, Work and Visit in the Coastal Zone

This basic policy is a reminder that people use the coast for different purposes and have different needs and expectations. The quality of human life improves if needed development is built in a manner which respects the natural and built environment.

5. Promote Public Access to the Waterfront Through Linear Walkways and At Least One Waterfront Park in Each Waterfront Municipality

Along much of the waterfront, particularly in developed areas, highways or underutilized private property prevent residents from being able to walk, fish or otherwise enjoy the shores of rivers and bays. In some locations, high-rise buildings immediately adjacent to the waterfront block visual access to the water. Discouraging new highways and high-rise buildings adjacent to the waterfront, providing pedestrian bridges over existing highways, publicly purchasing selected waterfront properties, and obtaining easements for public access over other properties can increase the value of the waterfront to the surrounding communities, by making possible linear walkways, bikeways and vita courses along the waterway.

The waterfront in much of the coastal zone does provide sites where urban and suburban residents can relax, walk, fish, or play, even in areas where swimming is not currently advisable. The waterfront offers views of boats and shorelines, fresh breezes and a sense of openness not otherwise available in most urban areas. Waterfront parks, by bringing people to the waterfront, also help raise public consciousness about water quality and waterfront use and development.

Waterfront parks do not have to be large or elaborate. The success of Liberty State Park in Jersey City has demonstrated that an attractive, green area by the water can attract many people. It has also proved that a park can be extremely beneficial in a location which many believed was unsuited to a park. Nevertheless, for some municipalities, a waterfront park may make little sense due to the lack of an appropriate site or too small a nearby population. The specific policies on recreation, therefore, will exempt such areas from the policy.

6. Maintain Active Port and Industrial Facilities, and Provide for Necessary Expansion in Adjacent Sites

The proposed New Jersey coastal zone includes thriving port and industrial facilities along both the Northern Waterfront and the Delaware River Areas. The continued vitality of these facilities is important to the state's economy and helps New Jersey contribute to several national interests.

7. Maintain and Upgrade Existing Energy Facilities, and Site Additional Energy Facilities Determined to be Needed by the N.J. Department of Energy (DOE) in a Manner Consistent with the Policies of this Coastal Management Program

The Northern Waterfront and Delaware River Areas of the proposed coastal zone contain many of the East Coast's energy facilities for crude oil refining, petrochemical manufacture and electricity generation. Crude oil refining and petrochemical manufacture serve national needs. Electricity is generated for regional needs. Provided these facilities comply with federal air, water, toxic substance and other applicable regulations, the continued operation and needed expansion of existing petrochemical and oil refining facilities are expected to be acceptable under the New Jersey Coastal Management Program. Electric generating facilities must be in compliance with the same federal standards, and also must be determined to be needed by the N.J. Department of Energy.

The New Jersey Department of Energy (DOE) is responsible for determining what new energy facilities are needed in the State. DEP will use the specific policies of the coastal management program to ensure that the facilities determined to be necessary by NJDOE are located on sites where they can operate efficiently without threatening the health or welfare of area residents or natural resources.

8. Encourage Residential, Commercial, and Recreational Mixed-Use Redevelopment of the Developed Waterfront

Sections of abandoned and deteriorating waterfront property are suitable for residential, commercial or recreational reuse depending on their location. DEP will aid counties, municipalities, and developers in design of plans and programs to redevelop these lands to more beneficial uses.

The waterfront in or near urban areas can be creatively designed and used to accommodate diverse activities which might, at first glance, be considered infeasible or incompatible. Waterfront projects will be encouraged which include, for example, housing, public open space and commercial developments such as restaurants and stores.

Others have suggested combining industry and ports with recreation and education. If safely constructed, for example, a bike path could follow the outskirts of an industrial facility to a park, or a public area near a port could be designed to give people a view of the port in action, as the more familiar "nature interpretative trails" offer ecological understanding.

This Basic Policy is a recognition that developed waterfront areas in New Jersey, because of the views they offer and the large nearby population, provide unique opportunities for nontraditional, as well as traditional, forms of development and redevelopment.

CHAPTER ONE - INTRODUCTION

This part of the final environmental impact statement describes the New Jersey Coastal Management Program. This is the heart of the document and the focus of the other parts and of the appendices. Unlike some EIS's, it does not repeat all the information in Part I, but rather assumes the reader is somewhat familiar with this introductory material.

The Department of Environmental Protection (DEP) has prepared the New Jersey Coastal Management Program to protect the state's coastal resources while accommodating needed future development. The Program contains the statements of policy which will be followed by DEP in making coastal decisions and which will guide other public and private actions affecting the coast. The Coastal Management Program is also designed to enable New Jersey to meet the requirements, and thereby reap the benefits of the federal Coastal Zone Management Act. These include greater consistency between state and federal actions in the coastal zone, and the provision of federal funds for New Jersey's coastal management efforts.

DEP was given responsibility for preparing and administering the State's coastal management program by the Governor. DEP's enabling legislation, the Coastal Area Facility Review Act (CAFRA), Wetlands Act, Waterfront Development Law, and tidelands and shore protection statutes provide a strong mandate and basis for direct State agency involvement in key decisions involving the coastal region. The Department of Energy Act and the Hackensack Meadowlands Reclamation and Development Act give some coastal responsibilities to other State agencies, and these are also included in the Coastal Management Program.

The Coastal Management Program also contains the standards DEP will use to determine the consistency of actions proposed in the coastal zone by federal, state, and local agencies. New Jersey's coastal policies will be used to determine the consistency with the approved program of federal activities, development projects, licenses, permits, and financial assistance to the State and local governments under Section 307 of the federal Coastal Zone Management Act. The Coastal Program will aid DEP when it is called upon to review federal domestic financial assistance applications under the A-95 Project Notification and Review Process, as well as Environmental Impact Statements prepared under the National Environmental Policy Act. From time to time, DEP is also likely to receive requests for advice or comments on the adequacy or appropriateness of plans and proposals by government agencies and private interests. The Coastal Policies provide a visible basis for offering an informed comment on the consistency of these plans and proposals.

State funding decisions that affect coastal resources will also be guided by the Coastal Program. In particular, several important State aid, and direct State financing programs administered by DEP involve decision-making in the coastal zone: (1) the Green Acres Open Space Acquisition and Outdoor Recreation program of grants to local governments and direct DEP efforts, (2) the Shore Protection program of matching grants to local governments, and (3) the pass through grants DEP will make to local governments with funds available under the federal Coastal Zone Management Act.

The strong direct State role does not mean that DEP will regulate every proposed use of coastal resources within the defined coastal zone. Local governments in the coastal zone will continue to be solely responsible for the considerable amount of land and water use decision-making in the coastal zone which has no regional impact, as defined by State law.

New Jersey's coastal management program has three interrelated, basic elements: first, a boundary defining the general geographic scope of the program; second, Coastal Resource and Development Policies defining the standards for making decisions on what activities may take place within the boundary; and third, a management system defining the types of decisions subject to the program, and the process by which those decisions will be made. The Coastal Management Program, a guide to decision-making, resembles a tripod. All three legs, or elements, must be firmly in place for the Program to stand and work. All three elements function together and must be read and understood together, especially because of New Jersey's direct state control approach.

For example, if read out of the context of the overall management program, the Coastal Resource and Development Policies could be applied to every land and water use decision in the coastal zone, from the location of a single gas station to a nuclear generating station. That is not the intent here. Rather, the Coastal Resource and Development Policies are to be applied as substantive standards for decision-making for only those selected coastal decisions defined in the management system, particularly CAFRA, Wetlands, and waterfront development permit applications. The Coastal Policies could, however, because of their comprehensive nature, be used to guide other decisions not strictly subject to the New Jersey Coastal Management Program. The heart of the program remains, however, the combination of boundary definition, policy statements, and decision-making processes that in concert spell out New Jersey's approach to managing its coastal resources.

This Part of the EIS is presented in six chapters. Chapter Two defines the boundary proposed for the coastal zone. Chapter Three describes the management system which will be used within the boundary to carry out the Coastal Resource and Development Policies. Chapter Four presents the definitions, policies and rationales for the Coastal Resource and Development Policies which describe what should and should not take place in the coastal zone.

Chapter Five addresses seven special requirements of the federal Coastal Zone Management Act: Federal Consistency, National Interests, Regional Benefit Decisions, Geographic Areas of Particular Concern, Areas for Preservation and Restoration, Shoreline Access and Protection Planning, Shoreline Erosion Mitigation Planning Process, and the Energy Facility Planning Process. These sections, for the most part, repeat information in the first four Chapters but in a format which directly addresses the specific federal requirements and which provides greater detail. The proposed inclusion of the Hackensack Meadowlands Development Commission District is discussed in detail in this Chapter at the end of the section on Geographic Areas of Particular Concern.

Finally, Chapter Six outlines the next steps in the coastal management process in New Jersey, including public review and comment on this draft coastal management program, preparation of a final program, and activities New Jersey plans to pursue once the program receives federal approval.

CHAPTER TWO - BOUNDARY

Summary
Inland Boundary
Seaward and Interstate Boundaries

Summary

New Jersey's coastal zone extends from the New York border south to Cape May Point and then north to Trenton. It encompasses the waters and waterfronts of the Hudson River and related water bodies south to the Raritan Bay, the Atlantic Ocean and some inland areas from Sandy Hook to Cape May, the Delaware Bay and some inland areas, and the waterfront of the Delaware River and related tributaries.

The coastal zone encompasses areas in which the State, through the Department of Environmental Protection and the Hackensack Meadowlands Development Commission, has the authority to regulate land and water uses that have a significant impact on coastal waters. These authorities include the Coastal Area Facility Review Act (CAFRA), the Wetlands Act, the Waterfront Development Law, Tidelands statutes, and the Hackensack Meadowlands Reclamation and Development Act.

Inland Boundary

The inland boundary for the portion of the coast from Raritan Bay south to Cape May Point and then north along the Delaware Bay (consisting of parts of Middlesex, Monmouth, Ocean, Burlington, Atlantic, Cape May, Cumberland and Salem Counties), is defined as:

the landward boundary of the Coastal Area as defined in the Coastal Area Facility Review Act (CAFRA, N.J.S.A. 13:19-4), or the upper boundary of coastal wetlands located landward of the CAFRA boundary along tidal water courses flowing through the CAFRA area, whichever is more landward, including State-owned tidelands.

In the more developed portions of the State (including portions of Salem, Gloucester, Camden, Burlington, Mercer, Middlesex, Somerset, Union, Hudson, Essex, Passaic and Bergen Counties), the coastal zone boundary is defined as:

the landward boundary of the State's jurisdiction under the Waterfront Development Act (N.J.S.A. 12:5-3)* or Wetlands Act (N.J.S.A. 13:9A-1), or the landward boundary of State-owned tidelands, whichever extends farthest inland.

* The definition of the inland jurisdictional boundary of the Waterfront Development Law is: the first public road, railroad right-of-way, or property line generally parallel to any navigable waterway, but in no case more than 500 feet or less than 100 feet inland from mean high water.

This boundary (discussed below in "Principal Program Authorities") ensures that the State will regulate at least the first 100 feet inland from all tidal waters. The State will consider all land within 500 feet of tidal water to be within this boundary unless demonstrated otherwise. This represents a substantial reduction from the coastal zone boundary DEP proposed in several publications between December 1976 and March 1979, which would have extended the coastal zone inland to the first road or railroad, regardless of its distance from the water (See Appendix B).

The boundary of the Hackensack Meadowlands region is defined as:

the boundary of the area defined as the Hackensack Meadowlands District by the Hackensack Meadowlands Reclamation and Development Act. (N.J.S.A. 13:17-4)

A generalized map of the Statewide Coastal Zone Boundary is shown in Figure 1 in Part I of this document, and Figure 2 is a sketch of the boundary in different parts of the State.

The boundary encompasses approximately 1,792 miles of tidal coastline, including 126 miles along the Atlantic Oceanfront from Sandy Hook to Cape May. It ranges in width from one hundred feet to twenty-four miles (near Batsto and the Mullica River, in Burlington County). The total land area of the Bay and Shore region is approximately 1,376 square miles or 17 percent of New Jersey's land area.

Research indicates that there has been a rising trend in the level of the ocean, relative to coastal land, along the northern East Coast of the United States. Hicks* data places the rise at about 8 inches between the 1890s and 1970. If this trend continues, tidal waters will penetrate further up the State's coastal rivers. Should this change become significant, the coastal zone boundary and the area under the jurisdiction of the Waterfront Development Law, will be redelineated accordingly.

Seaward and Interstate Boundaries

The seaward boundary of the coastal zone is the three nautical mile limit of the United States Territorial Sea, and the interstate boundaries of the States of New York and Delaware and the Commonwealth of Pennsylvania.

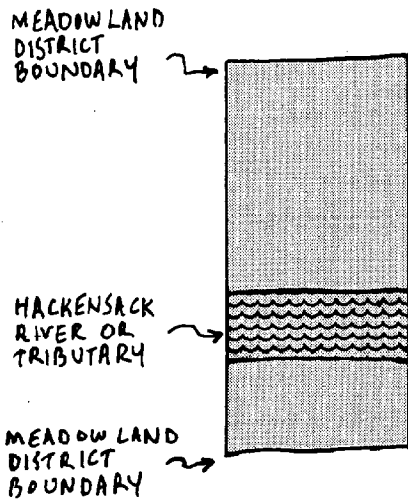
In most of Salem County, the Delaware-New Jersey State boundary is the mean low water line on the eastern (New Jersey) shore of the Delaware River. The New Jersey and Delaware Coastal Management agencies have discussed this issue and have concluded that any New Jersey project extending beyond mean low water must obtain coastal permits from both states. New Jersey and Delaware, therefore, will coordinate reviews of any proposed development that would span the interstate boundary to ensure that no development is constructed unless it would be consistent with both state coastal management programs.

* S.D. Hicks, "As the Oceans Rise", National Ocean Survey, NOAA, Vol. 2, No. 2, pp. 22-24, 1972.

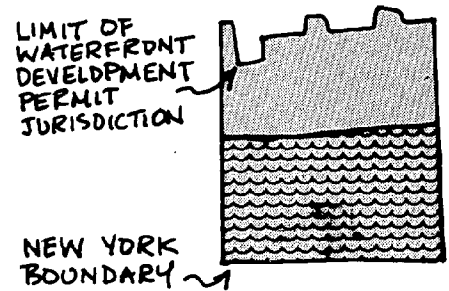
Figure 2

NEW JERSEY COASTAL ZONE BOUNDARY SKETCH

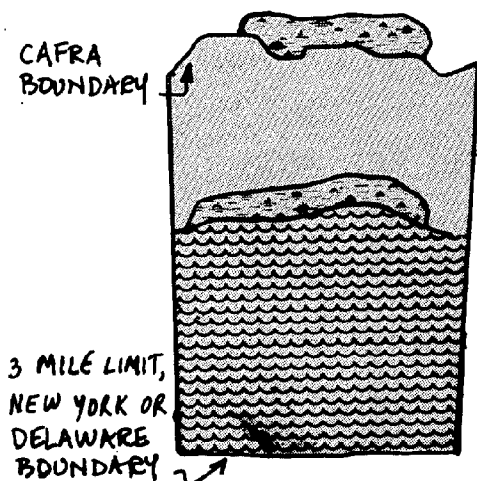
1 HACKENSACK MEADOWLANDS GENERALIZED CZ BOUNDARY



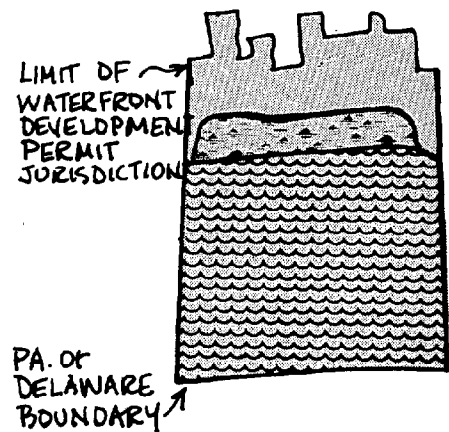
2 NORTHERN WATERFRONT GENERALIZED CZ BOUNDARY






3 BAY & OCEAN SHORE SEGMENT GENERALIZED CZ BOUNDARY



4 DELAWARE RIVER AREA GENERALIZED CZ BOUNDARY



-  REGULATED WETLANDS
-  TIDAL WATERS
-  PROPOSED COASTAL ZONE

CHAPTER THREE - MANAGEMENT SYSTEM

MANAGEMENT SYSTEM

- Introduction and Summary
- Administrative Framework-Department of Environmental Protection
- Principal Program Authorities
 - Introduction
 - Waterfront Development Law
 - Coastal Area Facility Review Act
 - Wetlands Act
 - Tidelands Management
 - Hackensack Meadowlands Development Commission
 - Department of Energy
 - Green Acres Funding
 - Shore Protection
 - Coastal Program Funding
- Supplementary Program Authorities
 - Water Quality Program
 - NPDES Permits
 - Areawide Water Quality Management (208) Plans
 - Wastewater Treatment Facilities: Regulation and Funding
 - Stream Encroachments and Flood Hazards
 - Wild and Scenic Rivers
 - Delaware and Raritan Canal State Park
 - Pinelands Protection
 - Regulation of State Owned Land
 - Air Quality Regulation
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- Other State Agencies
 - Department of Agriculture
 - Department of Community Affairs
 - Department of Labor and Industry
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 - Department of Health
- County and Municipal Land Use Authority
 - County Authority
 - Municipal Authority
 - Regional Land Use Authority
 - Delaware River Area
 - Hackensack Waterfront Area
 - Northern Waterfront Area
 - Federal Agency Authority
 - Public Participation
 - Conflict Resolution

MANAGEMENT SYSTEM

Introduction and Summary

In passing the federal Coastal Zone Management Act of 1972 (CZMA), Congress recognized both the importance of the coastal zone and the need to strengthen existing public controls over resources and development in order to protect it. Section 302(h) of the Act states that:

The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states ... in developing land and water use programs for the coastal zone, including ... methods and processes for dealing with land and water use decisions of more than local significance.

This section of the New Jersey Coastal Management Program describes the methods and processes that New Jersey has developed to guide decision-making in the coastal zone.

Section 305 of the CZMA requires that participating coastal states demonstrate one of three methods of exercising control over those land and water uses in the coastal zone which have a direct and significant impact on coastal waters. New Jersey's approach corresponds to management technique "B" -- Direct State regulation and planning -- as described in Section 306(e)(1) of the CZMA. This is the only feasible approach under New Jersey's existing legislative framework that is in compliance with the requirements of the CZMA. It requires no new legislation.

This Chapter describes the administrative framework and program structure under which New Jersey proposes to exercise these controls. It contains a description of the three state agencies involved in significant coastal decision-making: the Department of Environmental Protection, the Hackensack Meadowlands Development Commission and the Department of Energy. It describes the principal legal authorities and programs to be used in implementing the policies found in Chapter Three, including the Coastal Area Facility Review Act (CAFRA), the Wetlands Act, the Waterfront Development Law, the authority to grant title to, or license the use of State owned tidelands (sometimes referred to as riparian lands); and the Hackensack Meadowlands Reclamation and Development Act. It also describes certain capital spending programs such as the Green Acres Program, the Shore Protection Program and the coastal management funds available under the CZMA.

Also described are other state regulatory programs, largely administered by DEP, which are not focused as exclusively on the coastal zone, but which do affect the coast and supplement the State's ability to implement specific Coastal Resource and Development Policies or categories of policies. These are described as "supplementary program authorities".

The last sections of the Chapter analyze the manner in which the programs of other state, county, municipal, regional and federal agencies function with the Coastal Management Program.

ADMINISTRATIVE FRAMEWORK - THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

Created by the Legislature in 1970, the Department of Environmental Protection (DEP) was given broad authority to "formulate comprehensive policies for the conservation of the natural resources of the State..." (N.J.S.A. 13:1D-9). Specific authority for preparation of the coastal program was delegated by the Governor when he designated DEP as New Jersey's coastal planning agency under Section 305 of the federal Coastal Zone Management Act. DEP also serves as New Jersey's lead agency to administer the Federally approved program, under Section 306 of the Act.

The Department is divided into nine operating units: the Division of Coastal Resources (prior to July 1, 1979, the Division of Marine Services); Division of Water Resources; Division of Environmental Quality (which includes the Bureau of Air Pollution Control and the Solid Waste Administration); Division of Fish, Game and Wildlife; Division of Parks and Forestry; the Green Acres Administration; the Division of Fiscal and Support Services; Division of Employee Management and Development; and the Commissioner's Office. The Bureaus of Coastal Project Review, Coastal Planning and Development, Coastal Enforcement and Field Services, Tidelands, Coastal Engineering, and Marine Law Enforcement are all located in the Division of Coastal Resources (See Figure 3).

The core of the Coastal Management Program's management system is the adoption by DEP of the Coastal Resource and Development Policies as administrative rules. This means that the actions of every Division in the Department will be legally bound to be consistent with the Coastal Policies to the extent permitted by the enabling legislation of each program.

DEP's regulatory authority in the coastal zone is principally based on the Waterfront Development Law, the Coastal Area Facility Review Act, the Wetlands Act, and the Tidelands statutes. These laws apply to virtually all aspects of major development within this zone. Their administration will be unchanged under the coastal management program with the exception of the Waterfront Development permit program's redefined jurisdiction.

Division of Coastal Resources - On July 1, 1979, the former Division of Marine Services was reorganized and continued as the Division of Coastal Resources. The reorganization's principal features are the consolidation of three different permit offices (the former Office of Coastal Zone Management's CAFRA Permit Section, the Office of Riparian Lands Management, and the Office of Wetlands Management) into one Bureau of Coastal Project Review, the placement into one bureau of all coastal planning and development activities, and the creation of a Bureau of Coastal Enforcement and Field Services. This reorganization became permanent in 1980 when the Legislature amended the relevant portions of DEP's enabling legislation (N.J.S.A. 13:1D-1 et seq.).

The Division's new organization is described in chart form in Figure 4, and is summarized as follows:

- The Bureau of Coastal Project Review administers the CAFRA, Wetlands, and Waterfront Development Permit Programs, in conformance with the respective enabling legislation and with the Rules on Coastal Resource and Development Policies. The Bureau assumes the permit functions of the former Offices of Coastal Zone Management, Riparian Lands Management, and Wetlands Management.

ORGANIZATION CHART

DEPARTMENT OF ENVIRONMENTAL PROTECTION

JANUARY 1981

(Note: a different version of this chart appeared in the Final EIS)

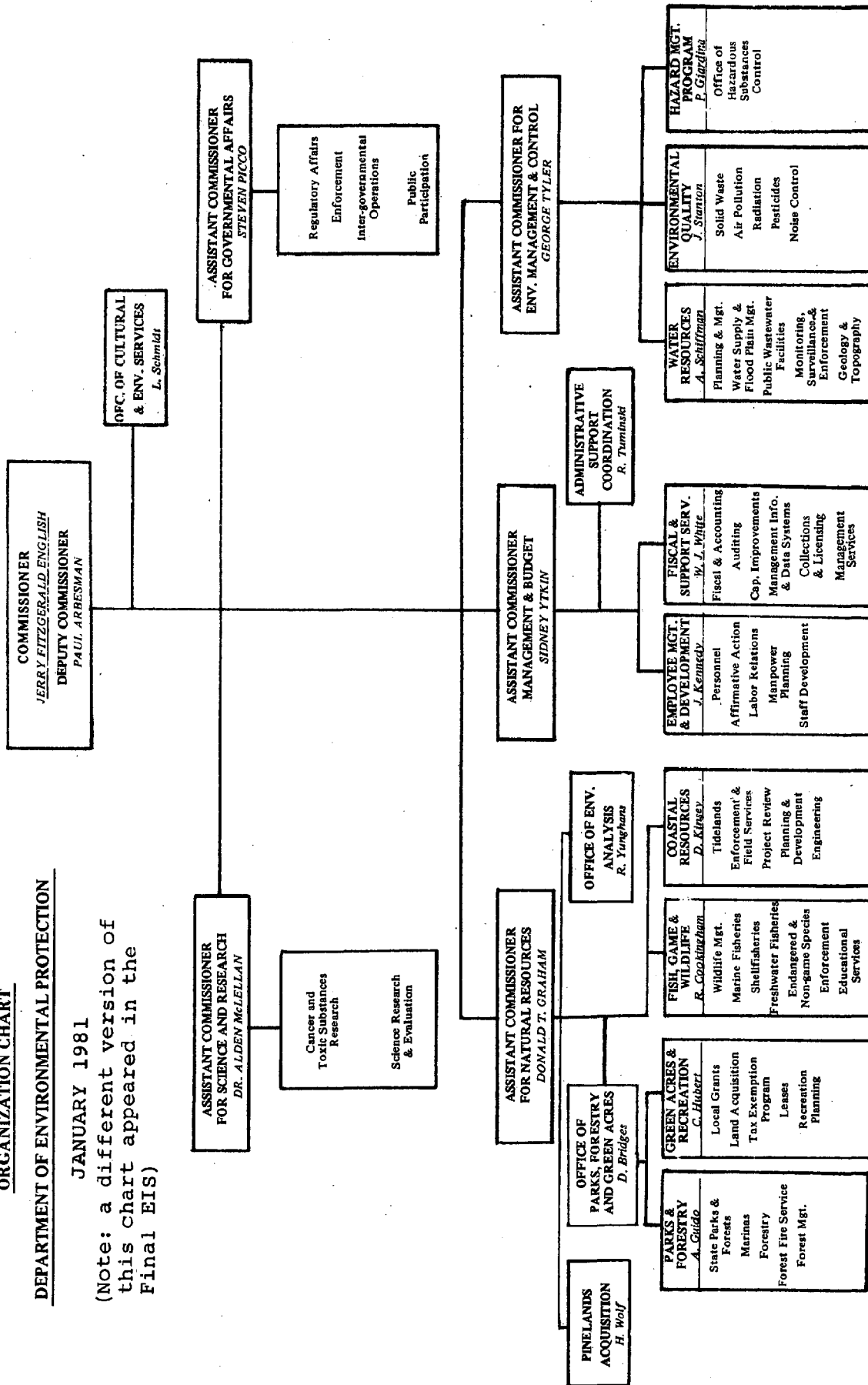
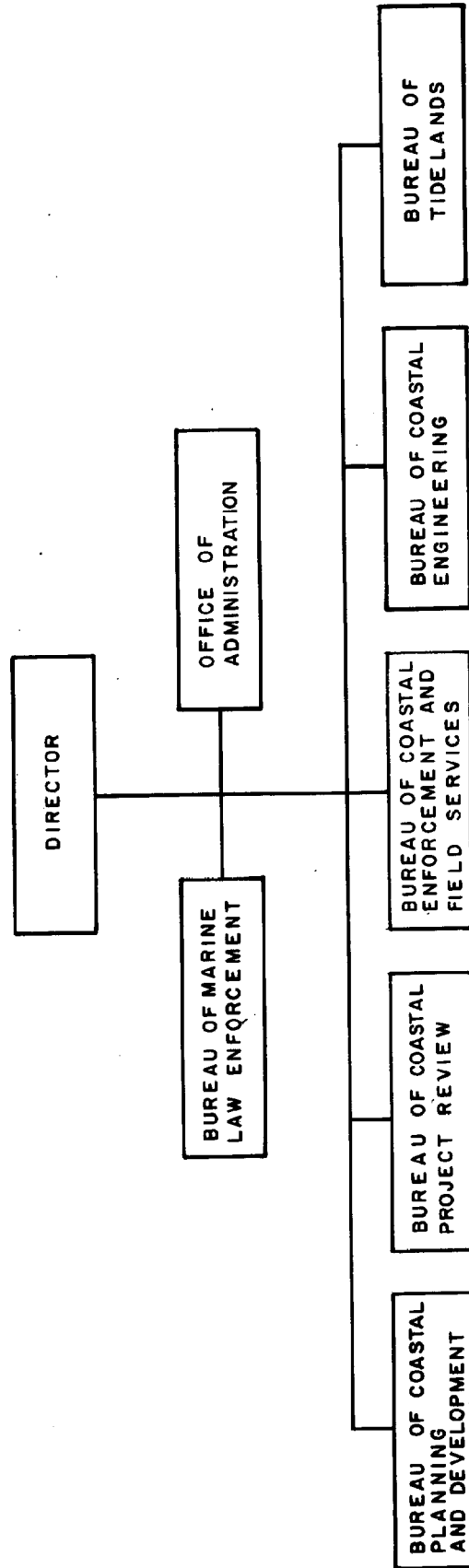


Figure 3

Figure 4

DIVISION OF COASTAL RESOURCES
ORGANIZATIONAL CHART
APRIL , 1980



- The Bureau of Coastal Planning and Development provides a single planning agency to assist in the development and refinement of a program to guide and regulate development and resource protection in the coastal zone. This office assumes the planning functions of the former Office of Coastal Zone Management.
- The Bureau of Tidelands serves as staff to the Tidelands Resource Council and aids in the protection and management of State-owned tidelands through the review of applications for conveyances for grants, leases and licenses. The Bureau assumes the functions of the former Office of Riparian Lands Management with respect to the description and valuation of State-owned tidelands.
- The Bureau of Coastal Enforcement and Field Services provides an interdisciplinary inspection team to support the functions of the Bureaus of Tidelands and Coastal Project Review. The Bureau assumes the inspection and enforcement activities of the former Offices of Coastal Zone Management, Wetlands Management and Riparian Lands Management.
- The Bureau of Coastal Engineering administers the State's shore protection and waterway maintenance programs. It assumes the functions of the former Office of Shore Protection.

Division of Water Resources - The Division of Water Resources is responsible for water quality planning and maintenance, water supply, and flood plain management. The Division is the designated water quality planning agency under Section 208 of the Federal Clean Water Act and, under the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.), has the authority to administer the National Pollution Discharge Elimination System (NPDES) permits once EPA delegates this responsibility to DEP. The standards set by the Division under the Clean Water Act are incorporated into the Coastal Policies, as required by Section 307(f) of the federal Coastal Zone Management Act. The Division also has the authority to regulate the building or alteration of structures within stream areas and to regulate development and land use in designated floodways under the Flood Hazard Areas Control Act, (N.J.S.A. 58:16A-50 et seq.).

Within the seventeen New Jersey counties with coastal waters, area-wide water quality planning (also known as 208) is being conducted by four county planning boards, by the Delaware Valley Regional Planning Commission in four counties, and by the Division of Water Resources in the remaining nine counties. The plans are being completed between 1979 and 1980 in different parts of the state. The water quality planning program seeks institutional and technical alternatives to control and abate water pollution. The key policies of the program are to protect the sources of potable water supply, control toxic and hazardous substances, control pollution from areawide sources, and protect environmentally sensitive areas. Water quality planning programs may utilize and refine the Coastal Location Acceptability Method for activities which need not be regulated for coastal management program approval (i.e. activities not having a direct and significant impact on coastal waters), and in parts of the state outside the coastal zone. The method could, for example, be modified and used in making land and water use decisions on and near non-tidal portions of the Delaware River and in other areas of the State where a decision-making method is needed to protect water quality.

The Division of Water Resources is also responsible for supervising the development of the State Water Supply Master Plan. The plan, financed by the State Water Conservation Bond Fund, will assess near and long-term water needs, evaluate various alternatives for meeting those needs, and provide a framework for the future planning and management of the State's water supplies. Specific recommendations will be made including those for near-term water supply development projects, conservation and management policies, interconnection programs, and drought and emergency response plans. The draft plan was completed in Spring, 1980. The Division of Coastal Resources will continue to work with the Division of Water Resources to assure consistency between the Water Supply Master Plan and the Coastal Policies.

Division of Environmental Quality - The Division of Environmental Quality is responsible for air quality planning and monitoring and is the agency designated to administer the federal Clean Air Act in New Jersey. The Division also is responsible for the State's radiation, noise, pesticide control and solid waste management programs. Under the requirements of the Clean Air Act, the Bureau of Air Pollution Control in the Division is developing programs to attain National Ambient Air Quality Standards. The attainment of standards for photochemical oxidants for the entire State, for carbon monoxide in central business districts, and for particulates in Camden and Jersey City, and the maintenance of clean air levels throughout the state are the major problems to be addressed.

The Division of Environmental Quality is also responsible for the development of a statewide plan to maximize use of resource recovery and minimize the adverse environmental impacts of solid waste. This was the responsibility of the Solid Waste Administration until August, 1979 when it was abolished and its functions transferred. The state has been divided into twenty-two districts (21 counties and the Hackensack Meadowlands Development Commission District). Each district is responsible for developing a ten-year plan to meet the solid waste needs for each municipality within the region. The SWA is responsible for coordinating the district planning through the development of a statewide plan and for providing guidelines, especially in the area of hazardous waste, for use by the twenty-two planning districts.

The Division of Coastal Resources works closely with the Division of Environmental Quality to develop programs directed toward attainment of the National Ambient Air Quality Standards, and to assure consistency between the Coastal Policies and statewide solid waste planning. In addition, attention will be given to the impact of Coastal Policies on air quality outside of the Coastal Zone. Coordination with the Division of Environmental Quality should result in the use of Coastal Policies to help attain statewide air quality and solid waste management goals as well as use of the State Implementation Plan and State and district solid waste plans to further Coastal Management Program goals.

Division of Parks and Forestry - The Division of Parks and Forestry manages the state's parks and is responsible for acquiring, operating and maintaining historic sites. The Division reviews CAFRA permit applications in addition to coordinating with Division of Coastal Resources on park and recreation policies.

Green Acres and Recreation - The Green Acres Administration develops a comprehensive recreation plan and works with the Division of Parks and Forests and the Division of Fish, Game and Wildlife to identify and rank possible sites for DEP purchase. The Division of Coastal Resources reviews all proposed expenditures of Green Acres funds, and where differences emerge, the Commissioner of DEP makes the final decision.

The New Jersey State Comprehensive Outdoor Recreation Plan (SCORP), prepared by the Green Acres Administration, addresses the adequacy of open space for existing and projected demands, and the accessibility of recreation resources for all segments of the population. The plan qualifies New Jersey for funding under the Federal Land and Water Use Conservation Fund Program. In addition to studying recreation needs and uses, SCORP also includes inventories of federal, state, county, municipal and private recreation resources. The major policies in SCORP, which are fully consistent with the Coastal Resource and Development Policies, include emphasizing open space in urban areas, developing recreation facilities, increasing public access to recreation resources through mass transit, and developing barrier free recreation facilities.

Division of Fish, Game and Wildlife - The Division of Fish, Game and Wildlife is responsible for managing the fish and wildlife resources of the State. This includes research and educational programs as well as enforcement of state fish and game laws and maintenance of state fish and wildlife management areas. The Division also administers the federal Endangered Species Act of 1973, which provides funds for the purchase or management of land for research and for other activities to protect wildlife.

Office of the Commissioner - The Office of the Commissioner conducts a number of functions relating to the Coastal Management Program.

Matters relating to Coastal Resources; Green Acres and Recreation; Fish, Game and Wildlife; Parks and Forestry; and Pinelands are supervised by the Assistant Commissioner for Natural Resources. Matters relating to water and air quality, solid wastes, and toxics are supervised by the Assistant Commissioner for Environmental Management and Control.

First, the Office of Environmental and Cultural Services coordinates the review of major development proposals likely to require more than one DEP-administered permit, applications circulated through the A-95 Project Notification and Review Process, and state agency sponsored projects costing more than one million dollars (as required by Executive Order #53 of 1973). This coordinated review helps speed the permit review process and insures the application of consistent policies. This Office also reviews coastal permit applications in terms of possible archaeological impacts. In addition, the Office evaluates the potential impact of CAFRA permit applications on cultural resources, maintains the State Register of Historic Places, and makes recommendations to the Commissioner for State nominations to the National Register of Historic Places.

DEP's Assistant Commissioner for Science administers the New Jersey Spill Control and Compensation Act (N.J.S.A. 58:1-23.11 et seq.) In addition, under his direction, the Office of Cancer-Causing and Toxic Pollutants is conducting research with the assistance of computer facilities funded by the U.S. Council on Environmental Quality. The information produced by this research will be incorporated

into the Coastal Policies, and could conceivably lead to proposed alternatives to certain siting policies. In addition, this computer project is serving as a model for DEP to test the feasibility of digitizing much of the information necessary to apply the Coastal Policies.

The Tidelands Delineation Program, conducted by the Office of Environmental Analysis (under the direction of the Assistant Commissioner for Natural Resources), is a multi-year project to map the extent of State-owned tidelands by delineating the mean high tide line. The program will require several years to complete because of the complex issues of land ownership to be resolved.

The Office of Public Participation, created in 1979, directs DEP's efforts to stimulate public interest and involvement in the development and implementation of all of the Departments management and planning programs.

PRINCIPAL PROGRAM AUTHORITIES

Introduction

This section describes the Coastal Management Program's principal regulatory and capital spending programs. They are described as "principal" programs since they allow the State, through a number of agencies, to implement a broad range of Coastal Policies. This is particularly true of the three coastal permit programs administered by the Division of Coastal Resources (the Coastal Area Facility Review Act, the Waterfront Development Law, and the Wetlands Act). These authorities, in and of themselves, provide authority for land and water uses in the coastal zone sufficient for program approval. In contrast, the supplementary programs which follow this section are more limited in scope and involve the implementation of only one or a few policies (e.g. air quality or water quality).

This section also describes the process by which the Tidelands Resource Council, a twelve-member citizen body, supervises the management of State-owned tidelands (sometimes called riparian lands). This section explains how the decisions of the Council are made consistent with the Coastal Resource and Development Policies contained in Chapter Three. Also described are:

The Hackensack Meadowlands Development Commission (HMDC): A state-level regional agency regulating development and conservation in a 31 square mile area encompassing part of the Hackensack River Estuary and associated uplands. Its master plan constitutes the proposed State Coastal Resource and Development Policies for the area, and, for the purposes of the Federal CZMA, its regulatory authority constitutes the principal management mechanism;

The Department of Energy (DOE): The state agency responsible for energy planning, DOE is authorized to participate with all other state departments on any regulatory decision affecting energy facilities.

The Shore Protection Program: A program planned and administered by the Division of Coastal Resources, and

The Green Acres Program: A recreation and open space funding program administered by DEP's Green Acres Administration.

1. Waterfront Development Law - The Waterfront Development Law (N.J.S.A. 12:5-3) authorizes DEP to regulate the construction or alteration of a dock, wharf, pier, bulkhead, bridge, pipeline, cable, or other "similar or dissimilar development" on or adjacent to navigable waterways and streams throughout the State.

Past and present administrative practice under the Law (passed in 1914) has been generally restricted to tide-flowed lands on or below the mean high water line, but DEP has now adopted regulations to fully implement the law by defining both its geographic scope and the types of development to which it applies. These regulations, which are reprinted in Appendix D, are intended to re-establish DEP's long neglected authority to guide development in waterfront areas. They have been reviewed by the Attorney General of New Jersey, who has issued an opinion endorsing them in terms of both geographic scope and facilities subject to the law. The Attorney General's opinion is also contained in Appendix D.

Under these regulations, the following types of development in the waterfront area will, with specified exceptions, require DEP approval:

- a. Docks, wharves, piers, bulkheads, bridges, pipelines, cables, moorings and other submerged structures (all these already require DEP approval);
- b. The construction, reconstruction, structural alteration, relocation or enlargement of any building or other structure, or of any excavation or landfill, and any change in the use of any building or other structure, or land or extension of use of land.

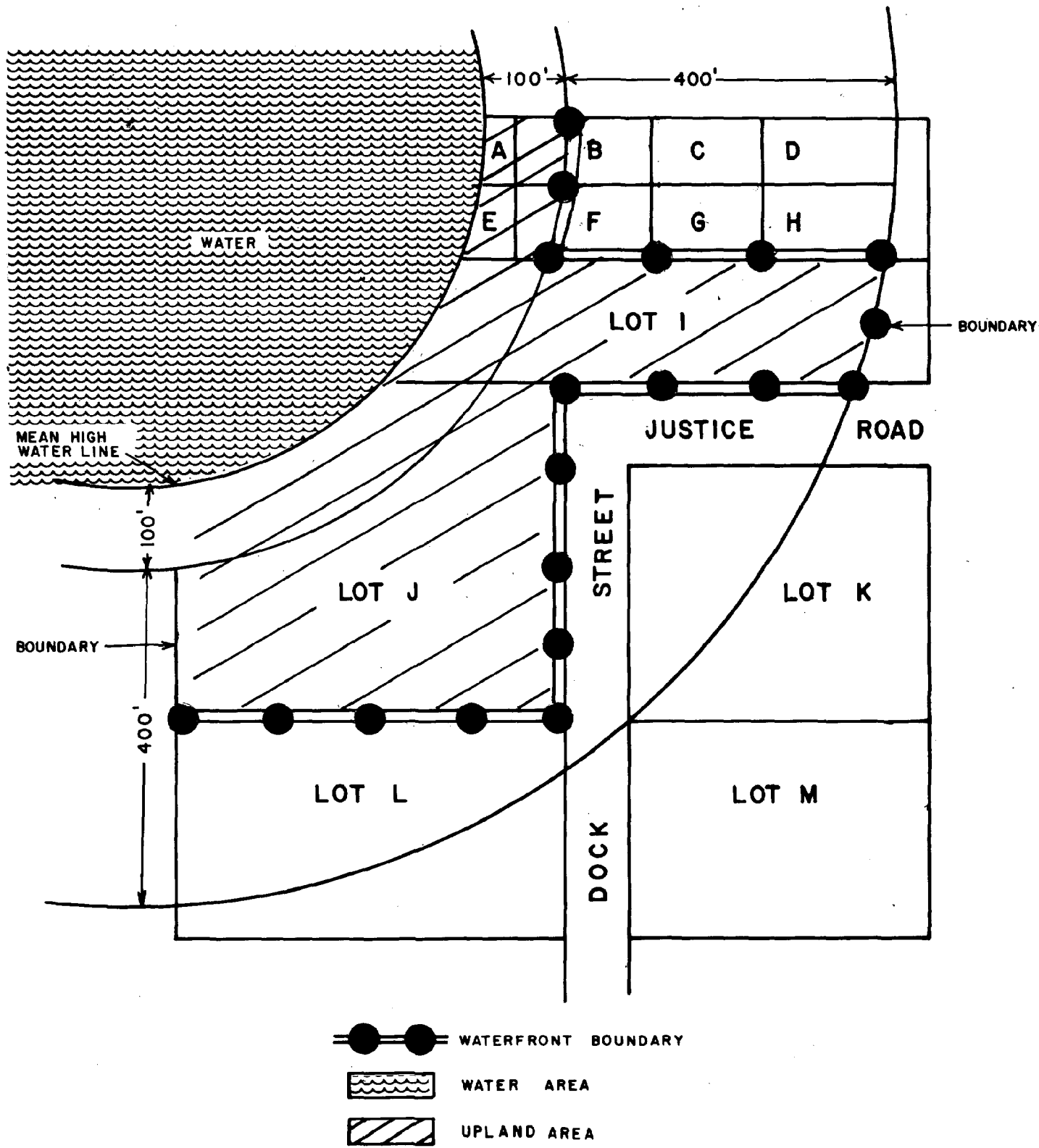
The waterfront area itself is defined (N.J.A.C. 7:7-2.4) as including all tidal waterways and lands adjacent thereto up to the first property line, public road or railroad right-of-way generally parallel to the waterway, provided that the boundary is between 100 and 500 feet from the waterway. This rule will apply in upland areas beyond the mean high water line only outside the CAFRA area and Hackensack Meadowlands District (see Figure 2). The waterfront boundary for a hypothetical location is illustrated in Figure 5a, and a sample map of the boundary is shown in Figure 5b.

Persons proposing to undertake waterfront development must first apply to the Division of Coastal Resources for a permit. The applicant must hold a valid grant, lease or license for the tide flowed part of the site before the application will be considered. The permit process is outlined in Figure 6.

Waterfront Development permits are subject to the requirements of the 90 Day Construction Permit Law (N.J.S.A. 13:10-29). Under its provisions interested persons who consider themselves aggrieved by the granting or denial of a Waterfront Development permit may appeal the Division's decision to the Tidelands Resource Council (a proposed amendment to the 90 Day Construction Permit Rules will transfer this function to the Commissioner). This includes the right to challenge decisions which the appealing party contends are in conflict with the Rules on Coastal Resource and Development Policies.

2. Coastal Area Facility Review Act (CAFRA) - The Coastal Area Facility Review Act (N.J.S.A. 13:19-1 et seq.) authorizes DEP to regulate and approve the location, design and construction of major facilities in a 1,376 square mile coastal region encompassing portions of Middlesex, Monmouth, Ocean, Burlington, Atlantic, Cape May, Cumberland and Salem Counties (See Figure 7). The CAFRA area

JURISDICTION OF RULE FOR WATERFRONT
DEVELOPMENT LAW — CONCEPT SKETCH



JURISDICTION OF RULE FOR WATERFRONT DEVELOPMENT LAW - SAMPLE MAP



— UPLAND AREA JURISDICTION

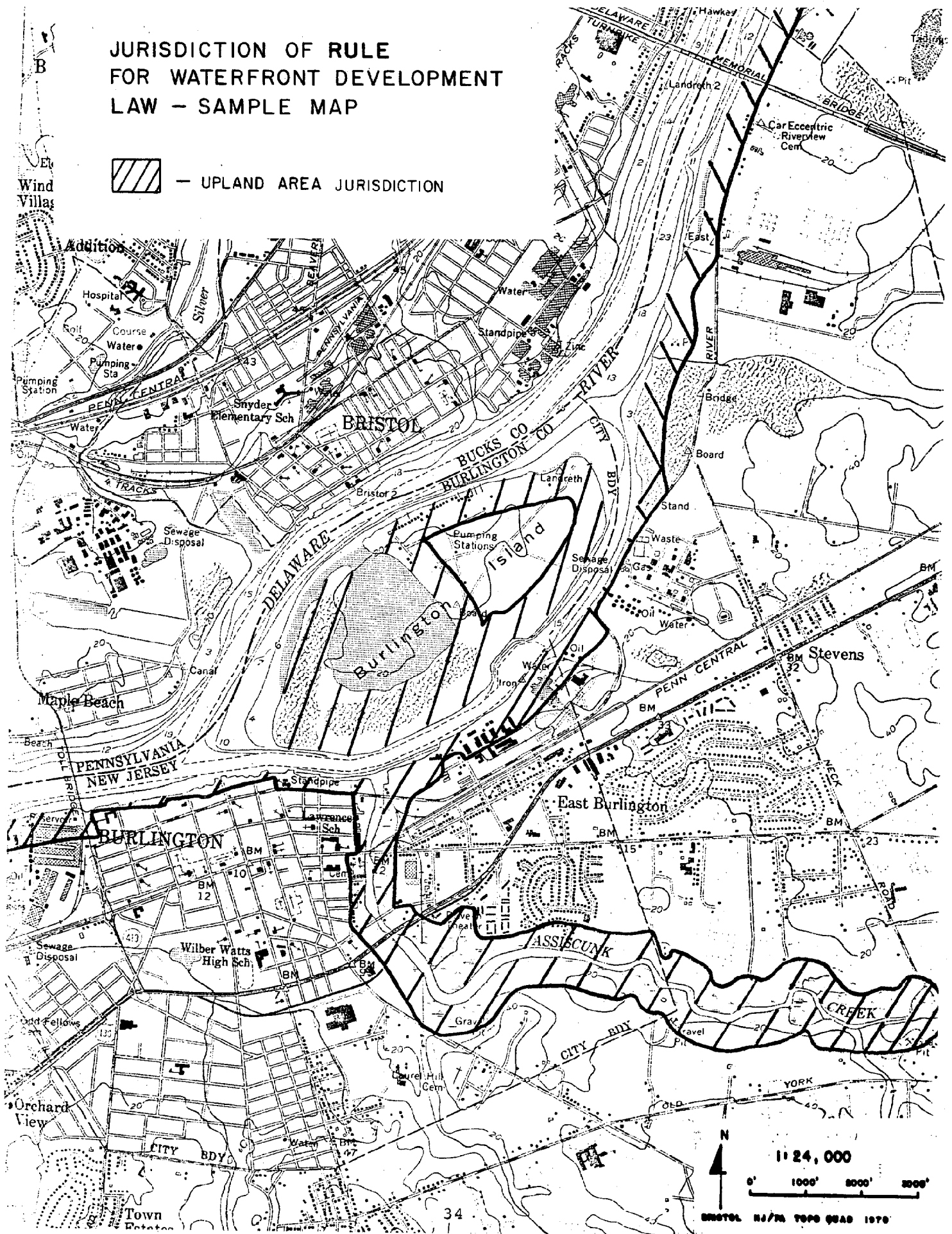
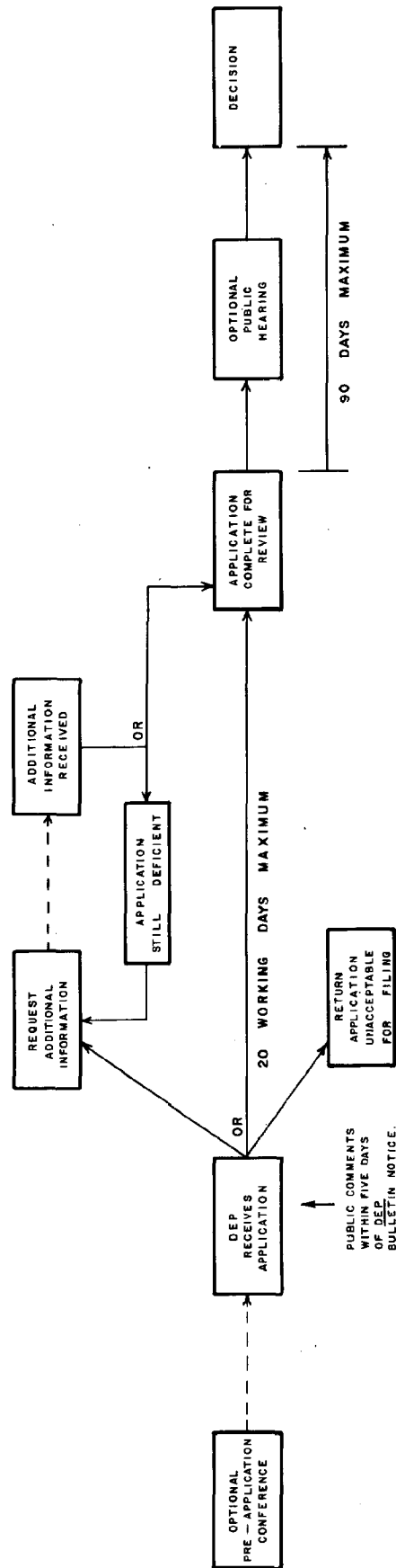


Figure 6

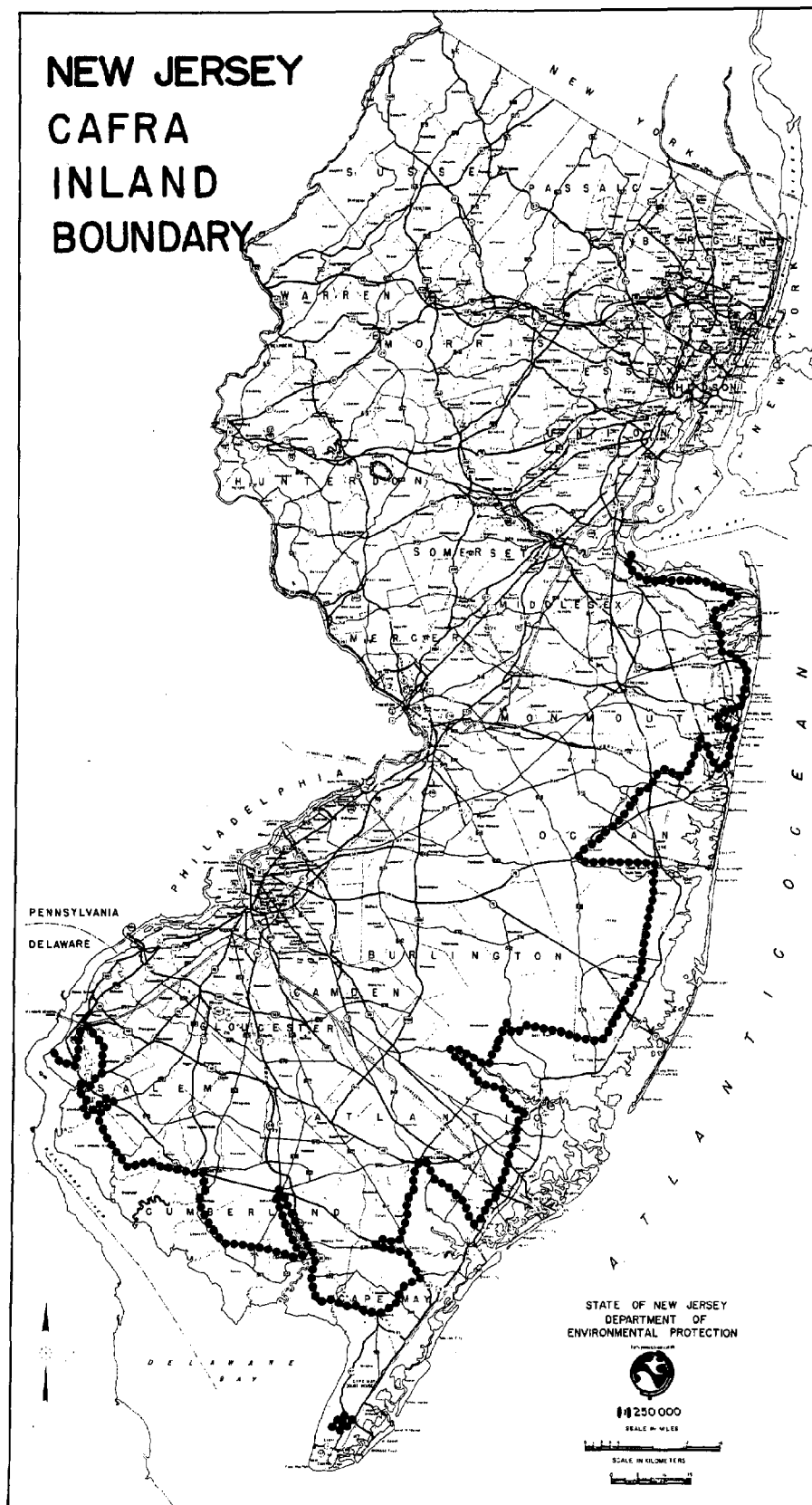
WETLANDS AND WATERFRONT (RIPARIAN) DEVELOPMENT PERMIT APPLICATION PROCESSES



NOTE: A WATERFRONT DEVELOPMENT PERMIT APPLICATION IS NOT DECLARED COMPLETE FOR REVIEW WITHOUT A LAWFUL RIPARIAN OCCUPANCIAL OR USE INSTRUMENT SUCH AS A RIPARIAN GRANT, LEASE, OR LICENSE.

--- INDICATES THAT THE TIMETABLE IS SET BY THE APPLICANT.

Figure 7



also includes coastal waters. Lying within the CAFRA area are New Jersey's barrier beach islands, all of its coastal resort areas, portions of the Pinelands, large agricultural areas, and New Jersey's fastest growing county (Ocean). The Act is administered by the Division of Coastal Resources.

Facilities regulated under CAFRA include all those proposed for the following purposes:

- a. Electric power generation, including oil, gas, coal fired or nuclear;
- b. Public facilities, including housing developments of 25 or more dwelling units, roads and airports, parking facilities of 300 spaces or more, wastewater treatment systems and components, and sanitary landfills;
- c. Food and food by-products, paper and agri-chemical production;
- d. Mineral products, chemical and metallurgical processes an inorganic salt manufacture;
- e. Marine terminals and cargo handling and storage facilities.

The full list of facilities regulated under CAFRA, together with the text of the Act, is reprinted in Appendix E. A flow chart depicting the CAFRA permit application process appears as Figure 8.

Persons proposing to build CAFRA-regulated facilities must first submit an application and Environmental Impact Statement (EIS) to the Division. A public hearing and review of the EIS by other DEP divisions and state agencies are required before the decision to grant or deny the permit may be made by the Division Director.

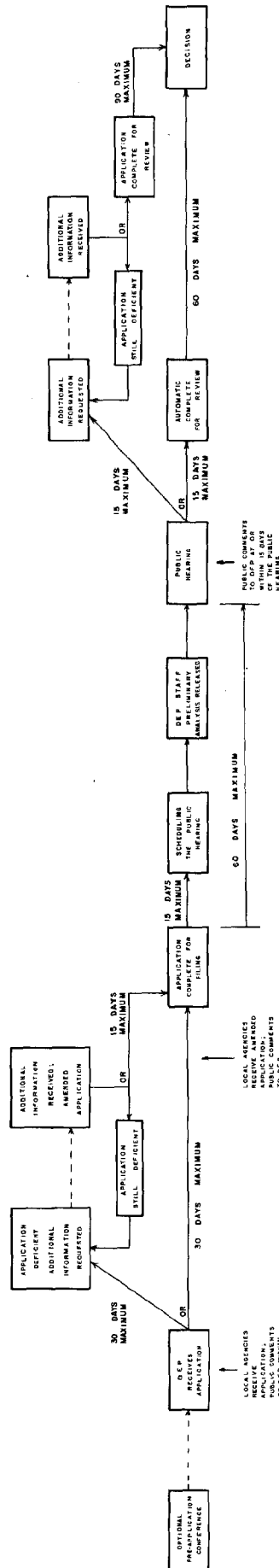
CAFRA permit decisions may be appealed by an interested person to the Commissioner of DEP, or directly to the three member Coastal Area Review Board. Appeals to the Commissioner may also be taken to the Review Board following her decision. The broad provisions of the appeals process allow challenges to permit decisions on the basis that they are inconsistent with the Rules on Coastal Resource and Development Policies.

3. Wetlands Act - The Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.) authorizes DEP to regulate activities on coastal wetlands. Since its enactment and the adoption of the Wetlands Regulations in 1972, the amount of wetlands filled in New Jersey has been reduced from 1,900 to 55 acres annually. In 1978, approximately 14 acres of regulated wetlands were filled, while in 1979, less than one acre was filled. The Act, which is administered by the Division of Coastal Resources, gives the state broad discretion in regulating virtually any form of development or disturbance on mapped coastal wetlands, except for mosquito control and continued commercial production of salt hay or other agricultural crops or activities.

Coastal wetlands are defined as those wetlands subject to tidal action along specified water bodies. They are not regulated under the Act until they have been mapped and the maps promulgated, following notice to affected property owners and a public hearing. Most coastal wetlands were mapped and the maps promulgated by 1972. The Act does not affect inland or freshwater wetlands.

Figure 8

CAFRA PERMIT APPLICATION PROCESS



THE DEP BULLETIN PROVIDES
PUBLIC NOTICE OF THE STEPS IN
THE PROCESS ONCE AN
APPLICATION HAS BEEN RECEIVED.

The greatest amount of wetlands acreage is found along the Atlantic shorefront but there is also a considerable amount of acreage along the Delaware River, and approximately twenty acres of regulated wetlands on the Raritan River, in and near Perth Amboy. The Act specifically exempts the Hackensack Meadowlands District from its coverage. Small wetlands areas in the Delaware River Area have not yet been delineated and are therefore not now regulated by DEP. They would, however, be regulated under the proposed rules for the Waterfront Development Act.

Under Administrative Order No. 12 of 1977, Wetland permit decisions are made by the Division Director and may be appealed to the Commissioner of DEP. As is the case with Waterfront Development and CAFRA permits, permit decisions may be challenged on the basis that they violate the Rules on Coastal Resource and Development Policies.

The Division of Coastal Resource's jurisdiction under each of the three coastal permits in the Bay and Ocean Shore Segment is shown in Figure 9. The Waterfront Development's proposed jurisdiction in the rest of the State is depicted in Figure 2.

4. Tidelands Management - In New Jersey, "tide-flowed" (or riparian) lands are owned by the State of New Jersey, except where already conveyed. These are lands now or formerly flowed by the mean high tide, including filled lands. The State owns the lands as trustee for the public, and must administer their use in the public interest. The State exercises control over tidelands in two ways: through its proprietary role as owner, and through its regulatory role under the Waterfront Development Law.

The State's ownership interest extends to the mean high water mark, which is determined on the basis of a theoretical 18.6 year tide. DEP's Office of Environmental Analysis is presently conducting a tidelands delineation program throughout the State. Until the delineation is complete, the Division of Coastal Resources is determining the applicability of tidelands law on a case-by-case basis. Landowners proposing to build and citizens concerned about a proposed project, as well as the Division of Coastal Resources staff of Marine Lands Inspectors, bring individual cases to the attention of the Department.

The State's ownership role is exercised through the Tidelands Resource Council, which may grant, lease, or license the use of State-owned tidelands provided such action is in the public interest. Persons seeking to purchase, lease or otherwise use these lands must first obtain the Council's approval (Figure 10). Many of the State's tidelands were sold in the nineteenth and early twentieth century, but it is the present practice of the Council only to license the use of the lands, and not to grant them outright, except in unusual cases.

The Council, which is composed of twelve citizens appointed by the Governor, with the advice and consent of the State Senate, has broad discretion concerning applications for tideland conveyances. The Council may make any decision it believes to be in the public interest. DEP's Commissioner and Director of Coastal Resources, however, have the authority to veto any Council action inconsistent with state policy. Should a veto occur, the application is returned to the Council for reconsideration. Consideration of the State's Coastal Resource and Development Policies in tidelands decision-making is also assured by the fact that the Division of Coastal Resources serves as staff to the Tidelands Resource Council.

FIGURE 9

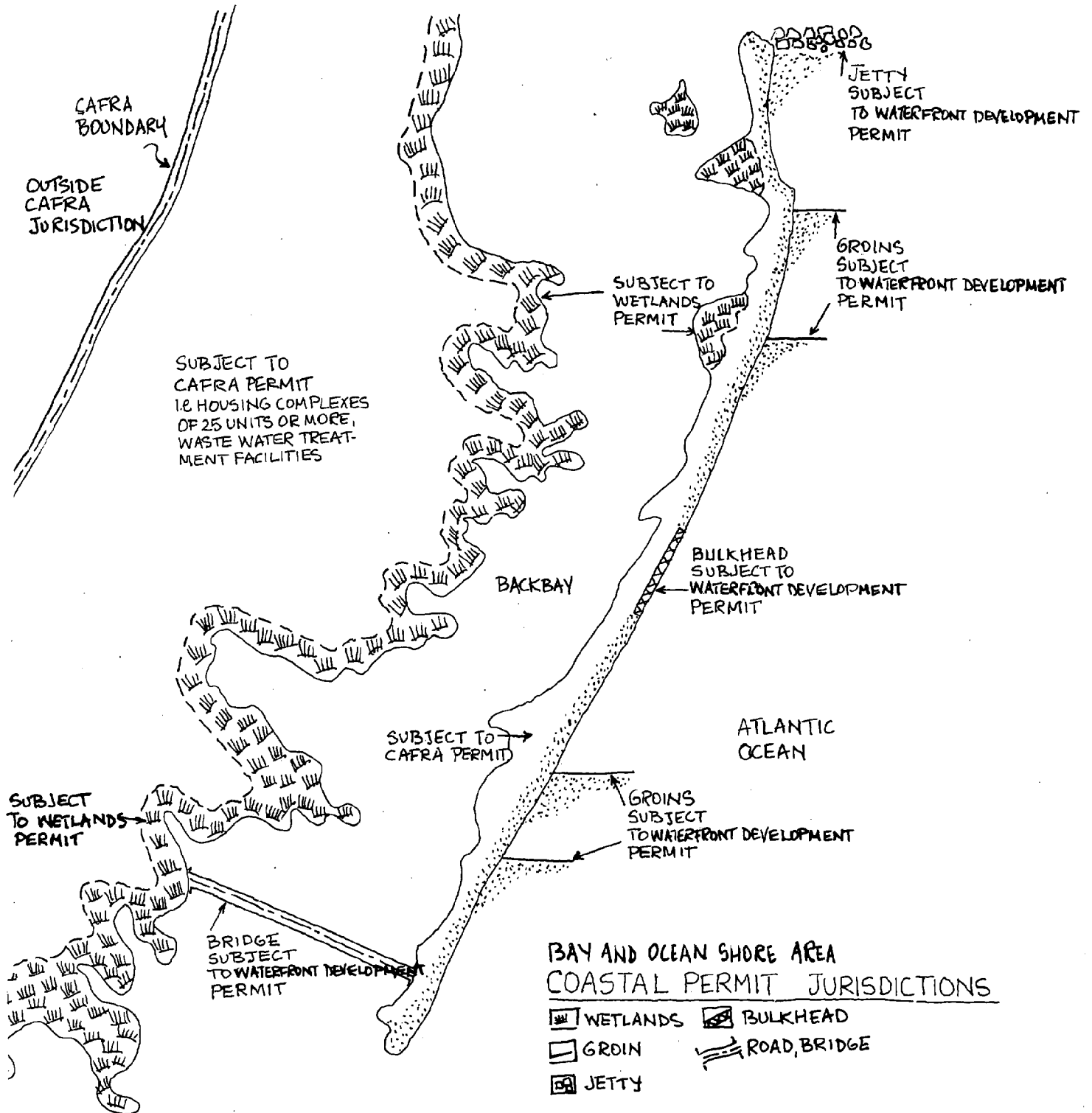
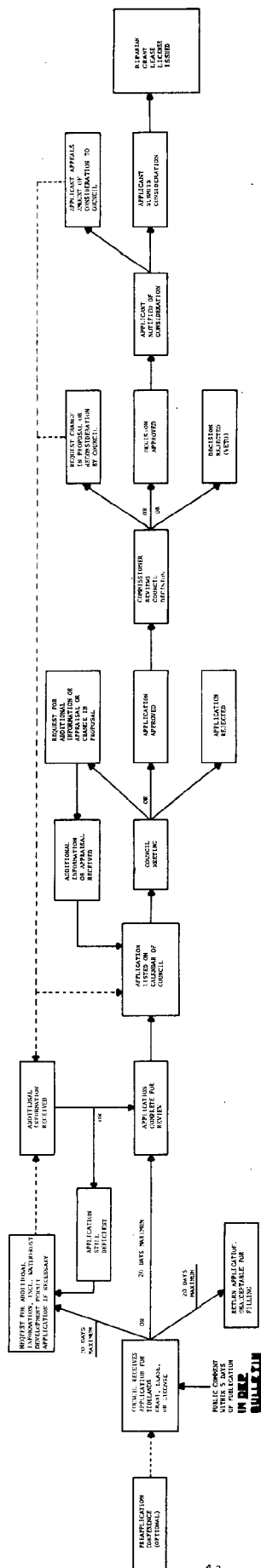


Figure 10



In keeping with traditional riparian law, the owners of land immediately upland have the first right to purchase or use tidelands. But before any person may make use of tidelands, the Council requires that they obtain a Waterfront Development Permit. Since the permit may only be granted if the activity is consistent with the Coastal Resource and Development Policies, this requirement insures that the use of tidelands will conform with those policies.

5. Hackensack Meadowlands District - Implementation of coastal policies in the Hackensack Meadowlands District will be a joint venture of DEP and the Hackensack Meadowlands Development Commission (HMDC), with the Commission's plans guiding both agencies in their decisions. The HMDC is composed of the Commissioner of the Department of Community Affairs and three residents each from Bergen and Hudson Counties, appointed by the Governor, with the advice and consent of the State Senate. The Commission is responsible for developing and implementing a plan for ecologically sound development of the Meadowlands District. For this purpose, it has been given planning and zoning powers for the District, which were previously exercised by the individual municipalities. In 1972, the Meadowlands Commission adopted a master plan, which, as revised in 1977, 1978 and 1979, is to guide future development of the District. The HMDC will be the State agency responsible for implementing the State's coastal program under the CZMA in the Meadowlands District, and the coastal policies for the District will be those presently adopted by the HMDC in their Master Plan and other policy documents.

Amendments to the Zoning Regulations of the Hackensack Meadowlands District will be considered as amendments to the Coastal Management Program when they meet the definition for amendments found in 15 CFR 923.80(c):

"amendments are defined as substantial changes in, or substantial changes to enforceable policies or authorities related to:

- (1) Boundaries;
- (2) Uses subject to the management program;
- (3) Criteria or procedures for designating or managing areas of particular concern or areas for preservation or restoration; and
- (4) Consideration of the national interest involved in the planning for and in the siting of, facilities which are necessary to meet requirements which are other than local in nature."

As required by 15 CFR 923.53(a)(1), DEP-Division of Coastal Resources will make federal consistency determinations for actions affecting the Meadowlands District. However, such determinations will be made after consultation with the HMDC. The District is not subject to the requirements of the Wetlands Act.

6. Regulation and Planning of Energy Facilities - The Department of Energy (NJDOE), created in July 1977 (N.J.S.A. 52:27F-1 et seq.), has broad planning authority over energy-related matters, including the authority to participate in the decision-making of other State agencies concerning the siting of energy facilities. The fact that energy generating and petroleum refining facilities often seek to locate in the coastal zone means that NJDOE's authority is a significant element in the management system.

The Departments of Energy and Environmental Protection, recognizing their coextensive jurisdiction over energy facility siting in the coastal zone, and also recognizing the importance of such siting decisions to a successful coastal management program, entered into a memorandum of understanding in August 1978. The memorandum has three important features: a procedure for DOE review of coastal permit applications, a commitment by DEP and NJDOE to make their findings on the basis of the State's Coastal Resource and Development Policies as well as on the State Energy Master Plan, and a procedure for resolving disagreements between the two agencies. The proposed amendments to the existing Coastal Resource and Development Policies will not be adopted until agreed to by NJDOE, at which time they will be subject to the August 1978 Memorandum of Understanding. (See Appendix C)

In the case of a disagreement between DEP and DOE concerning the siting of an energy facility, the matter will be submitted to an Energy Facility Review Board for resolution. The Board was established by the Act creating DOE, and consists of the Director of DOE's Division of Energy Planning and Conservation, the Chief Executive Officer of the state instrumentality with the power of approval over the application, and a designee of the Governor. The Board has never had to meet.

The New Jersey Department of Energy is also the lead agency for the Coastal Energy Impact Program (CEIP). The 1976 Amendments to the federal Coastal Zone Management Act created Section 308, the CEIP, to provide financial assistance to help coastal states respond to the growth and impacts of new energy exploration and development. A second objective of the CEIP is to balance the two national goals of encouraging development of domestic energy resources to further energy self-sufficiency, and to protect and manage the nation's coast in a manner consistent with the objectives of a state's Coastal Management Program. To be eligible for assistance under the CEIP, a coastal state must be receiving a grant under Section 305 of the Act, have a coastal management program which has been approved under Section 306, or be making satisfactory progress which is consistent with the policies set forth in Section 303 of the Act. New Jersey currently meets these criteria. Ensuring New Jersey's continued eligibility through federal approval of a complete statewide coastal management program is one key incentive for completing the program.

CEIP grants are based in part on the amount of OCS acreage adjacent to a particular state. As specified in the FCZMA, NOAA's Assistant Administrator for Coastal Zone Management is in the process of establishing extended lateral seaward boundaries which will be used to determine New York and Delaware, and New Jersey's respective CEIP grant allocations.

As the lead agency for CEIP, the New Jersey Department of Energy is responsible for administering the program, including soliciting applications, providing technical assistance. Funds are allocated to municipal and county governments, State agencies and governmental regional planning agencies according to the program's intrastate allocation process which includes project evaluation and approval by the New Jersey Intrastate Allocation Committee, representing diverse state interests. DOE and DEP coordination is required by the federal CEIP regulations which state that CEIP assistance cannot be granted without DEP certification of compatibility with the goals and policies of the developing Coastal Management Program or consistency with the approved Coastal Management Program.

To facilitate such a finding, and to satisfy the requirement that the state's coastal planning agency review CEIP applications, the Memorandum of Understanding provides that all such applications will be forwarded to DEP for consistency review.

Another major responsibility of the Department of Energy is preparation and updating of the State Energy Master Plan. This plan considers the production, distribution, consumption and conservation of energy in the state and surrounding region. The Plan and the more specific reports it promises will become a primary resource for energy facility siting decisions by DEP. The State Energy Master Plan was formally adopted in October 1978.

The Board of Public Utilities, which is in, but not of, the Department of Energy, has broad regulatory authority over public utilities. Included in this authority is the power to supercede local zoning decisions when necessary if the service conveniences the welfare of the public (N.J.S.A. 40:55D-19). This authority comes into play only when a proposed utility facility has received required state permits (including coastal permits) and is denied a required local permit. This provision helps New Jersey fulfill a section of the federal CZMA requiring that local governments not be able to unreasonably restrict uses of regional benefit (See Chapter Four).

7. Green Acres Funding - The Green Acres Administration determines where and how state funds should be spent for park and open space acquisition, development, and capital improvements. DEP can purchase land under this program by condemnation if necessary. The Division of Coastal Resources reviews proposed expenditures of Green Acres funds in the coastal zone for consistency with the Coastal Resource and Development Policies and can suggest modifications. In addition, under the Use Policies for Recreation, Green Acres funds would be withheld from municipalities with recreational plans or ordinances which are inconsistent with the Coastal Resource and Development Policies.

The State Comprehensive Outdoor Recreation Plan (SCORP), prepared by the Green Acres Administration, addresses the adequacy of open space for existing and projected demands, and the accessibility of recreation resources for all segments of the population. The plan qualifies New Jersey for funding under the Federal Land and Water Use Conservation Fund Program. In addition to studying recreation needs and uses, SCORP also includes inventories of federal, state, county, municipal and private recreation resources. The major policies in SCORP, which are also proposed for adoption in the Coastal Management Program, include an emphasis on open space in urban areas, recreation facility development, increasing public access to recreation resources through mass transit, and developing barrier free recreation facilities.

In November 1978, the voters of New Jersey approved a \$200 million Green Acres Bond issue, with \$100 million earmarked for the acquisition and development of park land in urban areas. This brings to \$540 million the amount of money approved by the voters for Green Acres funding since 1961. The Green Acres Administration will be spending this money in accord with SCORP priorities. One top priority is the creation of waterfront parks in urban areas. Some of the money will be used for direct state acquisition, while the majority will be channeled through local governments as matching grants. This money will help to significantly expand public access and recreational opportunities through the coastal zone.

New Jersey has also received additional funds for park rehabilitation in selected urban areas under the federal Urban Parks and Recreation Recovery Act, passed in 1978. These funds could be used by an eligible municipality to fill the local matching share of a state Green Acres grant.

8. Shore Protection - Shoreline erosion is a major concern in New Jersey, and DEP is authorized to undertake any and all actions necessary to prevent and/or repair damage caused by such erosion (see N.J.S.A. 12:6A-1). In 1977, New Jersey's voters approved a \$30 million bond issue (the Beaches and Harbors Bond Act of 1977, P.L. 77-208), \$20 million of which is to fund State matching grants for beach restoration, maintenance and protection facilities, projects and programs.

The Act requires that DEP prepare a comprehensive master plan that will serve as a basis for these grants. Work on this plan has been underway since 1978, and is being conducted by the Division of Coastal Resources. Shore Protection rules, which have been proposed only in draft form, would be procedural rules which cite the Coastal Resource and Development Policies relevant to shore protection for their substantive element. These include policies on Coastal Engineering, Dunes and Dune Management, Beach Nourishment, and High Risk Beach Erosion Areas. This uniformity between programs is required by the adoption of the Coastal Resource and Development Policies as Department rules governing coastal decision-making.

In addition to guiding the state's program, the Shore Protection Master Plan and the Coastal Policies will serve as a basis for the planning of joint projects with the U.S. Army Corps of Engineers. Coastal permits will be issued only in conformity with the Policies.

9. Coastal Program Funding

Coastal Management Program Implementation (306) Funds*

Upon federal approval of the coastal program, New Jersey is eligible to receive implementation funds under Section 306 of the federal Coastal Zone Management Act. DEP received \$800,000 in FY 1979, for example, after approval of the program for the Bay and Ocean Shore Segment. The Department made available \$50,000 of this implementation money to selected county and municipal governments included within the Bay and Ocean Shore Segment boundary by inviting them to submit proposals for planning projects which would help to fulfill the objectives of the Coastal Program, and selected projects in Toms River and Bridgeton. In FY 1980, the Department received a second year implementation grant of \$840,000, of which \$86,000 is being passed through to six local governments.

After receiving Federal approval for the complete coastal program, New Jersey will be eligible for increased Section 306 funds to implement the entire program. DEP intends to continue to make a part of this money available for local governments to assist with projects which will help to carry out the goals and objectives of the coastal program. Other States have, for example, granted funds to local governments for the development of beach access plans or projects, land use analyses, zoning ordinance revisions, and downtown revitalization projects.

*See update sheet

DEP has also been receiving funds for the past four years, under Section 305 of the federal Coastal Zone Management Act, to develop the Coastal Management Program. In 1977, DEP passed through \$180,000 of these planning funds to twelve coastal counties. In 1978, the Department granted \$75,000 to eleven of the counties to enable them to write specific reports contributing to DEP's development of a coastal program. In 1979, DEP granted \$110,000 to five municipalities in the developed coast to develop plans for projects which would further the State's coastal objectives. DEP is currently receiving its last year of Section 305 federal coastal planning funds and will not be eligible to receive additional Section 305 funds.

Coastal Energy Impact Program (308) Funds

The Coastal Energy Impact Program, Section 308 of the Coastal Zone Management Act, provides funds to assist states in dealing with impacts from new or expanded energy facilities, and existing, expanded or new coastal energy activities. State agencies, counties and municipal governments are eligible to receive CEIP grants and loans from the Department of Energy, which is the state's designated lead agency for CEIP. New Jersey has been allotted almost \$2 million in grants and \$3 million in loans since the program's inception in 1977. The CEIP is explained in more detail in the section above which discusses the Department of Energy.

Supplementary Implementation Programs in DEP

There are a number of programs in DEP which require that new development meet regulations and standards concerning the maintenance and enhancement of water and air quality, the regulation of soil erosion, and the protection of flood hazard areas, wild and scenic rivers, and specified park areas. Programs in these areas will be useful in implementing particular coastal policies. They will be subject to the Coastal Resource and Development Policies to the extent allowed by their enabling legislation. This extent is narrow in the case of programs dealing with the quality of the ambient environment (i.e. air and water quality regulation), but is broader where a program involves land use regulations.

The policies of these programs are generally consistent with and, in several cases, are identical with the proposed Coastal Policies. The Coastal Policies on Water and Air Quality and Solid Waste adopt by reference the policies being developed by the divisions of the Department with greatest expertise in each field. The Division of Coastal Resources continues to monitor and review proposed changes to these policies through the rule-making process, and if a change were to violate the adopted Coastal Resource and Development Policies, the DEP Commissioner could refuse to allow the change.

Water Quality Program - The Federal Clean Water Act of 1977 (33 USC 466 et seq.) sets a framework for achieving a national goal of restoring and maintaining the chemical, physical and biological integrity of the nation's waters and ensuring that they be fishable and swimmable. This is to be accomplished by Federal-state partnerships under which EPA sets increasingly strict effluent standards for wastewater discharges and the states set quality standards for rivers, bays and the ocean, and develop a strategy for their attainment. The key regulatory element is the National Pollutant Discharge Elimination System (NPDES), and the key planning element is the Areawide Water Quality Management (208) Plan. These elements, as well as State wastewater treatment facility requirements, are the key programs for attaining the State's water quality goals in the coastal zone and throughout the state.

The attainment and maintenance of water quality in New Jersey is the responsibility of DEP's Division of Water Resources. The Division of Coastal Resources also plays a role in water quality enhancement through the enforcement of water quality resource policies in decision-making under CAFRA, the Wetlands Act and the Waterfront Development Law. The Division of Water Resources will consider other coastal policies not related to water quality to the extent statutorily permissible.

NPDES Permits - Any point source discharge into the waters of the United States, including the territorial sea, must receive a National Pollutant Discharge Elimination System Permit (NPDES) from either EPA or the State. There are 1,396 facilities currently regulated by NPDES in New Jersey. Perhaps as many as half of these facilities are located in the coastal zone. In New Jersey, permits are issued by EPA, Region II, but the State now has enabling legislation (the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.) which allows DEP to take over the permitting function. Under the present arrangement, DEP's Division of Water Resources must certify that a proposed discharge will not prevent the attainment of the State's water quality standards before EPA may issue a NPDES permit, and can therefore prevent the issuance of that permit. This certification, which is required by Section 401 of the Federal Clean Water Act, focuses on the chemical and biological impact of the proposed discharge on attainment of the water quality standards for the receiving body of water. For example, water classified as TW-1, the highest classification for tidal waters, must be suitable for shellfish harvesting where permitted. If a proposed discharge would threaten the shellfish beds in TW-1 waters, the Division of Water Resources would have to withhold Section 401 Certification, and thus preclude EPA from issuing a NPDES permit. The NPDES permit process could be used to implement many of the proposed coastal policies for point sources of discharges.

When EPA approves a State program for issuing NPDES permits, the requirements remain the same -- compatibility with Federal effluent guidelines and state water quality standards -- but in New Jersey, DEP rather than EPA would make the initial permit determination. EPA would then have the authority to overrule DEP concerning any permit, just as DEP can currently prevent EPA from issuing a permit by not providing the Water Quality Certificate.

Section 6(b) of the State's Water Pollution Control Act also authorizes the Division of Water Resources to adopt regulations placing pre-construction requirements on anyone planning to build a new facility which would discharge wastewater. So-called "Preliminary Facility Approval" Regulations were proposed in the summer of 1977 which would require any person proposing to build a facility to first examine its potential impact on water quality. DEP could prevent construction or require modifications in the plan until it was satisfied that the completed facility would be compatible with State water quality requirements, thereby controlling water pollution by regulating the siting and construction of facilities in addition to regulating effluents. Adopting such regulations could significantly increase the types of development which DEP could require to follow the coastal policies. The proposed rules, however, were not well accepted and are presently being studied and revised.

The Coastal Management Program will adopt by reference the State's water quality standards as its standards, and the Division of Coastal Resources will comment on any proposed revisions. This is the same procedure adopted for the Bay and Ocean Shore Segment, which recognizes and relies upon the Division of Water

Resources' expertise. The Division of Coastal Resources will use its permitting authority, in consultation with the Division of Water Resources, to approve only those projects which will not prevent attainment of State water quality standards.

Areawide Water Quality Management (208) Plans

A Water Quality Management Plan developed according to Section 208 of the Clean Water Act is a comprehensive and implementable strategy for the control of water pollution in a county or multi-county area. Federal and State legislation require that the Coastal Management Program and 208 Plans be consistent. Through a Federal agreement between the Department of Commerce and the Environmental Protection Agency, and through a working relationship at the state level between the Divisions of Coastal Resources and Water Resources, the policies of the two programs are being coordinated and made consistent for both point and non-point sources of pollution.

Each 208 plan is to consist of a set of policies and a management system detailing how and by which agencies these policies will be enforced. The Coastal Zone is to be addressed by nine separate 208 Plans:

<u>Counties</u>	<u>Planning Agency</u>	<u>Status as of July 1980</u>
1. Middlesex	Middlesex County Planning Board	Certified by Governor
2. Mercer	Mercer County Planning Board	Certified by Governor
3. Burlington/Camden/ Gloucester	Delaware Valley Regional Planning Commission	Certified by Governor
4. Salem/Cumberland	DEP-Division of Water Resources	Certified by Governor
5. Bergen/Hudson/Essex/ Passaic/Union/Somerset	DEP-Division of Water Resources	Certified by Governor
6. Monmouth	DEP-Division of Water Resources	Certified by Governor
7. Ocean	Ocean County Planning Board	Draft Plan Completed
8. Atlantic	Atlantic County Division of Planning	Draft Plan Completed
9. Cape May	Cape May County Planning Board	Draft Plan Completed

The Division of Coastal Resources will not issue CAFRA, Waterfront Development or Wetlands permits to development proposals which conflict with a certified 208 Plan. Similarly, all other regulatory programs in DEP will not issue permits to projects in conflict with a certified plan as required by N.J.S.A. 58:11A-10. The Division of Coastal Resources has been participating in the 208 planning process to assure that the plans are not only consistent with Coastal Policies, but also contain policies and strategies designed to protect water-related coastal resources. Thus, in implementing 208 plans through regulatory and other strategies, DEP, the counties and other agencies will also be implementing elements of the Coastal Management Program.

Wastewater Treatment Facilities - DEP is actively involved in the planning, financing and regulation of wastewater treatment facilities.

The State Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.), authorizes DEP's Division of Water Resources to require a permit for the construction, installation, modification or operation of any wastewater treatment facility, including

but not limited to sewage treatment plants, sewage collection systems including interceptors, sewer outfalls, industrial wastewater treatment plants, and cooling towers and ponds. Through another program authorized by the Water Pollution Control Act, the Division may place a ban on extensions to a sewerage system when that system is found to be receiving flows in excess of design capacity or to be discharging inadequately treated sewage.

Under the Water Supply and Sewer Systems in Realty Improvements Act (N.J.S.A. 58:11-23 et seq.), the Division must certify the adequacy of the proposed water supply and wastewater disposal system for any development involving fifty or more houses, or other structures producing wastewater, before a municipality may give the necessary subdivision approval. This requirement assures that proposed major subdivisions in the coastal zone and the entire state which employ on-site sewage disposal will not be built unless the disposal system is adequate "with respect to wells or other sources of water supply, topography, existing individual sewage disposal systems on adjacent properties, water table, soil characteristics, available area and expected volume of sewage" and meets State standards regarding design (N.J.A.C. 7:9-2.5). This law is of importance primarily in areas without regional sewerage systems. In the proposed coastal zone, this includes significant portions of Cumberland, Salem, and Cape May Counties.

In September, 1979, EPA delegated administration of the Wastewater Construction Grant Program under Section 201 of the Federal Clean Water Act to the Division of Water Resources. Under this program, DEP determines the eligibility of proposed municipal facilities for federal aid for facility planning (Step I), engineering (Step II), and construction (Step III). Since all wastewater facilities require a Waterfront Development permit (and a CAFRA permit if located in the CAFRA zone), DEP and EPA in 1977 entered into an agreement which requires that applicants obtain these permits before Step II engineering funds are released. This practice will continue under the delegated program. This insures that wastewater treatment facilities are planned, funded and built in accordance with Coastal Policies.

The State Public Sanitary Sewerage Facilities Assistance Act of 1965, (N.J.S.A. 26:2E-1 et seq.), authorizes DEP to give grants of up to 30 percent of the State-local cost of construction projects which qualify for the 75 percent Federal construction subsidy under Section 201. The State construction aid program is designed to complement the federal sewerage construction grants, and DEP's funding priorities are in accordance with Federal priority guidelines and Areawide Water Quality Management (208) Plans. This funding program will help to carry out coastal policies related to secondary impacts and the protection of environmentally critical or sensitive areas.

Stream Encroachments and Flood Hazards

No structure or alteration within the 100 year floodplain of any stream may be made without a permit from DEP's Division of Water Resources. This permit responsibility existed under the Stream Encroachment Act (N.J.S.A. 58:1-26) until its repeal and transfer to the Flood Hazards Area Control Act (N.J.S.A. 58:16A-50 et seq., as amended, see P.L. 1979, c.359). The program is intended primarily for flood protection, "to safeguard the public against danger from waters impounded or affected by such structures".

Administration of this program supports the preservation of stream channels in their natural state, and will allow further implementation of the Coastal Policies related to hydrology and flood hazards. Of 500 stream encroachment permit applications received in 1978, DEP granted 450. The Division of Coastal Resources and Water Resources are discussing procedures for waiving the Stream Encroachment Permit requirement for projects requiring a Waterfront Development Permit.

The Flood Hazards Area Control Act also authorizes DEP to adopt land use regulations for delineated floodways "designed to preserve (their) flood carrying capacity and to minimize the threat to the public safety, health and general welfare". Under the Act, municipalities may conduct the delineation and adopt regulations concerning their use in zoning ordinances, provided that they meet the minimum standards of the DEP regulations.

DEP has adopted, or proposed for adoption, floodway delineations in various parts of the proposed coastal zone (See Resource Policy on Flood Hazard Areas in Chapter Four). The Act only applies to riverine flood hazard areas, however, so its use in coastal flood zones is extremely limited.

Wild and Scenic Rivers

The purpose of the Wild and Scenic Rivers Act of 1977 (N.J.S.A. 13:8-45 et seq.) is to preserve, protect and enhance the natural and recreational value of some of the State's most significant river segments. The Act allows the Commissioner of DEP to designate river segments as "wild", "scenic", "recreational", or "developed recreational". In any river segment so designated, all construction activities would be either prohibited or regulated within the river's flood hazard area. This would expand upon DEP's authority under the Flood Hazards Area Control Act in the areas designated, by permitting a much wider range of considerations as criteria for DEP's regulatory decisions.

Before any designations can be made, the flood hazard area of a river under consideration must be delineated. The geographic extent of river designation is the flood hazard area, except that DEP owned lands beyond the flood hazard area which are important to the river may also be included in the designated river area. A designation study, assessing the river's values, and the impact of designation must be prepared and will be subject to public review and hearings.

The types of development that are controlled under the Act will depend on which designation is applied to the segment, with "wild" rivers having the strictest prohibitions and "developed recreational" the most lenient. DEP's Green Acres Administration has published guidelines for designation of the State's rivers under which both the Lower Delaware River and the Hudson River could be characterized as developed recreational segments. Examples of river segments which may be designated include: Hudson River from the New Jersey-New York border to Liberty State Park (only characteristics of the New Jersey side, including views of Manhattan, would be considered), or the Rancocas Creek from head of tide to confluence with the Delaware. DEP has proposed flood hazard area delineations for the Rancocas Region under the Flood Hazard Areas Control Act.

The Delaware and Raritan Canal State Park Act
(N.J.S.A. 13:13A-1 et seq.)

This law is similar to, but was enacted three years before, the State's Wild and Scenic Rivers Act. Preservation of the sixty mile Delaware and Raritan Canal is entrusted to the Delaware and Raritan Canal Commission, which is in but largely independent of DEP. The Department is required by the law to administer all State-owned lands along the Canal as a State park, in accordance with a master plan adopted by the Commission in May, 1977. The Commission is given project review authority over proposals within a delineated review zone which includes the Canal Park and any land on either side of it in which development will have drainage or visual impact on the park. Within this zone, the Commission has the authority to "review and approve, reject or modify any project ..." (N.J.S.A. 13:13a-14c).

The projects to be reviewed by the Commission are set by rules adopted in 1979 (N.J.A.C. 7:45-1.1 et seq.): Within 1,000 feet of the Canal Park (the "A" zone), all projects will be reviewed for drainage, visual, noise or other ecological impacts. Outside this area, but within watersheds of streams that enter the Canal Park (the "B" zone), projects will be reviewed only for drainage impacts. Projects to be reviewed in this latter area will be those involving construction or redevelopment of twenty-five or more dwelling units, projects which will cover one or more acres of land with impervious surfaces, and projects with any of the following uses: livestock pens, corrals or feed lots; pipelines, storage or distribution systems for petroleum products or chemicals; liquid waste, storage, distribution or treatment facilities; solid waste storage, distribution or incineration or landfill; quarries, mines or borrow pits; land application of sludge or effluents.

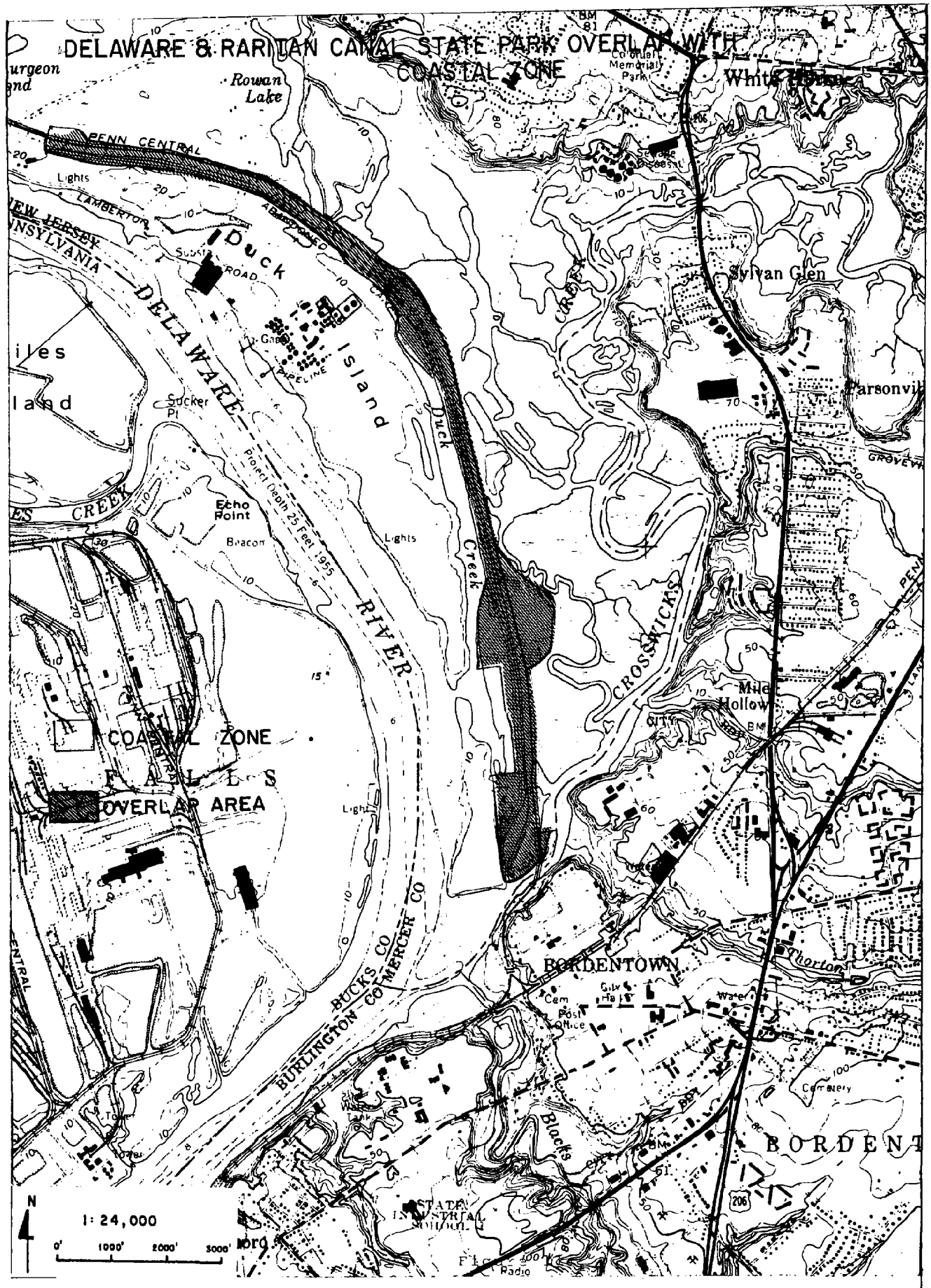
Two small segments of the canal park, totalling approximately 288 acres, lie within the proposed coastal zone (See Figure 11). In the Northern Waterfront area, the Canal extends along the Raritan River from New Brunswick to the limits of tidal water. In the Delaware River area, it begins at Crosswicks Creek, Hamilton Township, and then leaves the coastal zone as it turns away from the river in Trenton. Within these segments, proposed development would have to meet the policy requirements of both the Canal Commission and the Coastal Management Program. The policies proposed by the Commission are consistent with the proposed Coastal Resource and Development Policies.

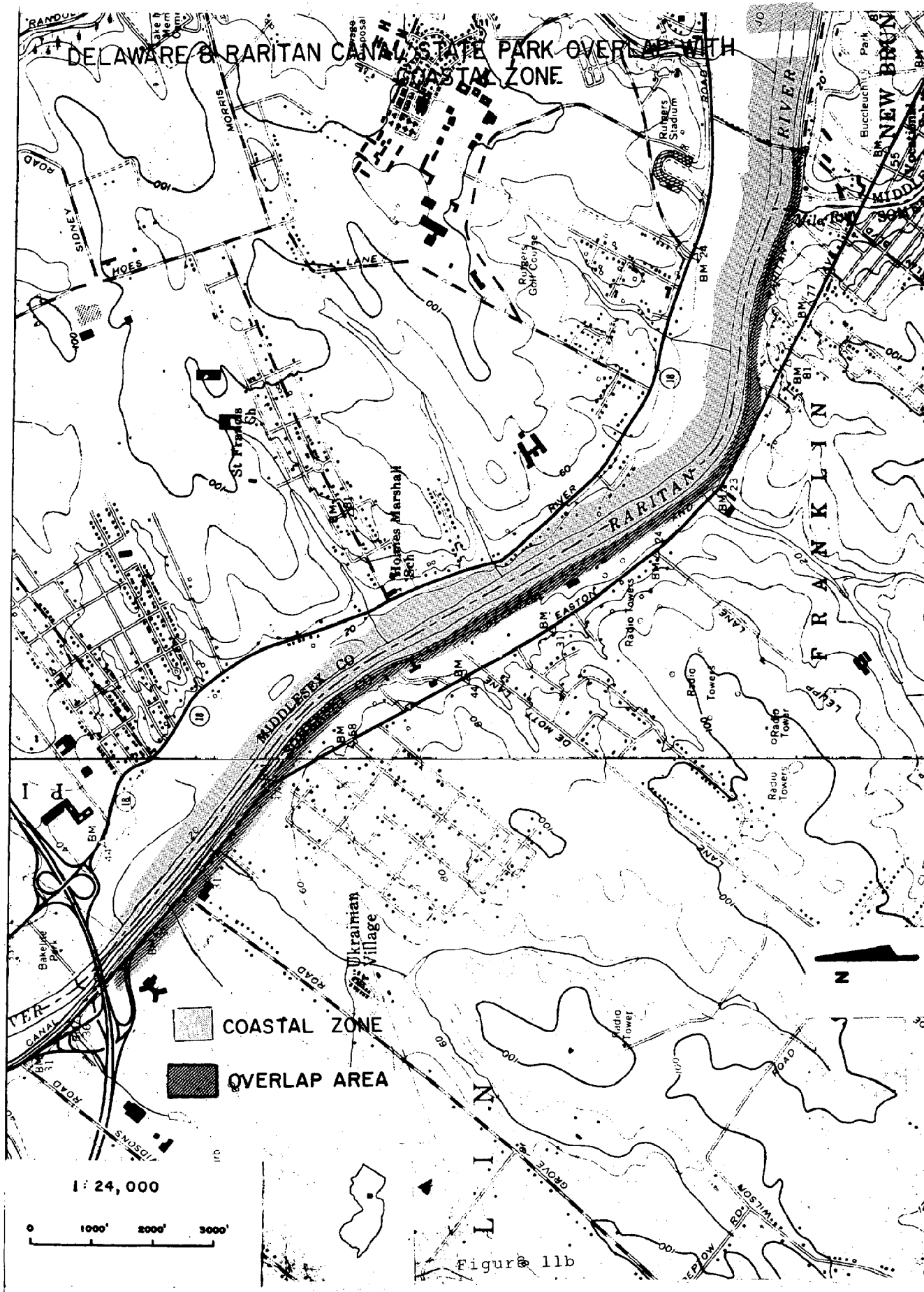
Pinelands Protection *

The Pinelands Protection Act (P.L. 1979, Ch. 111; N.J.S.A. 13:18A-1 et seq.) establishes a framework for the comprehensive planning and regulation of development in the approximately 1,000,000 acres of fragile, highly valued pinelands that reach across central and southern New Jersey. The Pinelands Area and its sub-areas are mapped and the overlap between that area and the proposed coastal zone is shown in Figure 19 (Chapter 4).

The Act is intended to accomplish the purposes of the National Parks and Recreation Act of 1978 (P.L. 95-625), which authorized federal support for Pinelands protection through planning and land acquisition. The Federal Act directs the Department of the Interior to provide up to \$3 million in planning assistance if requested by the Governor, and up to \$26 million in implementation funds

*see update sheet





following submission of an acceptable master plan. Both the planning process and a moratorium on State permit approvals and financial assistance were initiated by a Governor's Executive Order (EO No. 71, 1979) in March, 1979. The Pinelands Protection Act was subsequently passed and signed into law on June 28, 1979.

The Act establishes the following policy goals for the Pinelands:

1. The goal of the comprehensive management plan with respect to the entire pinelands area shall be to protect, preserve and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act and the Federal Act.

2. The goals of the comprehensive management plan with respect to the protection area shall be to:

(a) Preserve and maintain the essential character of the existing pinelands environment, including the plant and animal species indigenous thereto and the habitat therefor;

(b) Protect and maintain the quality of surface and ground waters;

(c) Promote the continuation and expansion of agricultural and horticultural uses;

(d) Discourage piecemeal and scattered development; and

(e) Encourage appropriate patterns of compatible residential, commercial and industrial development, in or adjacent to areas already utilized for such purposes, in order to accommodate regional growth influences in an orderly way while protecting the pinelands environment from the individual and cumulative adverse impacts thereof.

3. The goals of the comprehensive management plan with respect to the preservation area shall be to:

(a) Preserve an extensive and contiguous area of land in its natural state, thereby insuring the continuation of a pinelands environment which contains the unique and significant ecological and other resources representative of the pinelands area;

(b) Promote compatible agricultural, horticultural and recreation uses, including hunting, fishing and trapping, within the framework of maintaining a pinelands environment;

(c) Prohibit any construction or development which is incompatible with the preservation of this unique area;

(d) Provide a sufficient amount of undeveloped land to accommodate specific wilderness management practices, such as selective burning, which are necessary to maintain the special ecology of the preservation area; and

(e) Protect and preserve the quantity and quality of existing surface and ground waters.

The Act created a 15 member Commission (in but independent of DEP), and directed the Commission to develop a comprehensive Pinelands management plan by August 8, 1980.

On June 8, 1980, the Commission released a draft Comprehensive Management Plan including a land use map and development standards. Since the plan's release, legislation has been enacted to extend the deadline for plan adoption from August 8 to December 15, 1980, to allow adequate time for comment and revision. The standards for the Preservation Area, however, will take effect on August 8, 1980 as called for in the initial legislation.

Within one year of the plan's adoption, every county and municipality located in whole or in part in the Protection Area must submit to the Commission a master plan and/or zoning ordinance which complies with the adopted policies. Also following adoption, state regulatory and capital spending decisions in the area must comply with the policies.

The Act continues and extends to county and municipal approvals the moratorium on decision-making in the Pinelands area. The construction of single family dwellings is exempted from the moratorium in the Protection Area if the building lot was owned by January 7, 1979 by the person who is to occupy the dwelling, has access to a sewer system or, where no sewer is available, is greater than one acre in area.

The Commission may grant exceptions from the moratorium when necessary to alleviate extraordinary hardship or to satisfy a compelling public need, or where it has been determined that the project is consistent with the Act's purposes and would not result in substantial impairment of the Pinelands area's resources. The Commission has not yet adopted regulations governing this process.

The Pinelands National Reserve overlaps with the coastal zone in portions of Ocean, Burlington, Atlantic and Cape May Counties (see Figure 19), and in the Mullica River watershed there is also overlap between the coastal zone and the Pinelands Area under the jurisdiction of the State Pinelands Act. In this later area, coastal permits and approval from the Pinelands Commission will both be required for new development. This area is designated a part of the Preservation Area by the Pinelands Protection Act and a Limited Growth Region by the Coastal Resource and Development Policies, indicating a consistency of policies. In the area of overlap between the coastal zone and the National Reserve which is not under the jurisdiction of the Pinelands Protection Act, the Coastal Management Program will be the principal means of implementing the Pinelands Comprehensive Management Plan. The amendment to Coastal Growth Ratings in Ocean County (Chapter 4, Section 7:7E-5.3) and revisions to the Resource Policy on Buffers and Compatibility of Uses (Chapter 4, 7:7E-8.15), are both intended to make the coastal program more consistent with the draft Comprehensive Management Plan. Similarly, Section 22 of the State Pinelands Protection Act requires that DEP review its coastal policies and make any revisions "as may be necessary to effectuate the purposes of this act and the Federal Act". DEP believes that the Coastal Resource and Development Policies, as amended in this document, are basically

consistent with Federal and State Pinelands objectives and with the draft Pinelands Comprehensive Management Plan. Nonetheless, between now and the time of adoption of the Pinelands Comprehensive Management Plan, DEP and Pinelands Commission staff will be meeting to discuss modifications to both programs to increase their consistency.

Regulation of State Owned Land

The Natural Areas System Act (N.J.S.A. 13:1B-15.12a et seq.) calls for the Department to designate and regulate State-owned lands for the purpose of protecting and enhancing their natural values. The natural area regulations govern state agencies administering lands designated as part of the system, and ensure that any critical areas purchased by the State for preservation or conservation purposes are adequately protected. The Natural Areas System Act is a regulatory adjunct to those coastal policies encouraging the preservation of open space and the protection of critical environmental areas.

There are ten designated Natural Areas in the proposed coastal zone. These are described in Chapter Five under Geographic Areas of Particular Concern.

Parts of Rancocas State Park in Burlington County and the Delaware and Raritan State park in Middlesex and Mercer Counties are also in the proposed coastal zone. These parks and any other State-owned lands managed by DEP within the coastal zone, including forests and fish and wildlife management areas, will be managed consistent with the Coastal Policies. Development proposed on DEP managed lands is reviewed by the Division of Coastal Resources to assure consistency, if it requires one or more coastal permits.

Coastal resources along the Hudson River north of the George Washington Bridge, most notably the Palisades, are protected by inclusion within the Palisades Interstate Park. The park is managed by the Palisades Interstate Park Commission, a bi-state agency of New Jersey and New York.

Federally owned land is excluded from the coastal zone (see Appendix B).

Air Quality Programs

As the New Jersey agency designated to administer the Federal Clean Air Act, DEP's Division of Environmental Quality conducts the planning for and the monitoring of air quality. The Division's Bureau of Air Pollution Control has promulgated, and is further developing programs by which the National Ambient Air Quality Standards (NAAQS) will be attained. In compliance with the 1977 Amendments to the Federal Clean Air Act, New Jersey has submitted a State Implementation Plan (SIP) to the U.S. Environmental Protection Agency outlining strategies for attainment and maintenance of the Standards.

The Bureau of Air Pollution Control has an extensive permitting program which reviews proposals for any operation which would result in air pollution emissions. Thus, any proposal to construct or operate manufacturing facilities, non-commercial fuel burning equipment, storage tanks to hold fuel and other organic substances, and commercial fuel burning equipment with a heat output rate of one million BTU/hour or more must receive a permit from DEP. In addition, the Bureau requires permits to install any incinerator unless it will serve a multi-family dwelling of six units or less.

The purpose of requiring permits under the State's Air Pollution Control Act is to impose controls necessary to meet established standards on potential sources of new air pollution. The Act, therefore, will serve to implement the Coastal Policies on air quality. Permits are granted when the Bureau has ascertained that the application complies with Federal and State air pollution regulations, and that its emissions control system reflects "Best Available Control Technology", also considered "state of the art" technology. In any year, the Bureau reviews 6,000 to 7,000 applications and approves all but about 120.

Solid Waste

The Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. authorizes DEP to supervise the collection and disposal of all solid wastes and related operations, including the location of disposal sites. Proposed facilities and sites are to be reviewed with reference to the quality of groundwater, erosion control, and "such other measures as shall be deemed necessary to protect the public health and safety of the environment" (N.J.S.A. 13:1E-6). Because numerous environmental impacts may be considered under this Act, DEP would apply all of the proposed Coastal Policies as criteria for site selection for solid waste collection and disposal facilities.

Under the New Jersey Solid Waste Management Act and the Federal Resource Conservation and Recovery Act (RCRA, P.L. 94-580), every county in the State as well as the Hackensack Meadowlands Development Commission must draft a solid waste management plan. After the plans are adopted, they will control the siting of solid waste disposal facilities. RCRA states that for a plan to receive EPA implementation funds, it must provide that all solid waste be recycled or disposed of in sanitary land fills meeting federal requirements. The Division of Coastal Resources will review developing solid waste management plans for consistency with coastal policies.

Harbor Clean-Up

The "New York Harbor Collection and Removal of Drift Project" is a joint State/Federal undertaking, supervised by the U.S. Army Corps of Engineers and administered at the state level by the Bureau of Capital Improvements in DEP's Division of Fiscal and Support Services. The plan calls for the Corps to remove all abandoned sources of drift from both public and private property, from mean high water seaward to a depth of 20 feet. Disposal methods include burning at sea, landfill, and land incineration, with burning at sea found preferable. Some dredging may be required to reach structures scheduled for removal. Local governments are to be responsible for subsequent maintenance of facilities, and no funds are provided for the revitalization of cleared areas.

New Jersey's share of the project's cost, \$10 million, was authorized by the voters of the State as part of the \$30 million Beaches and Harbors Bonds Act of 1977. The Act states in part that "the state's growing population, expanding commercial development, and tourist industry all require and should have a clean, adequate, and accessible shoreline" (Section 2b).

OTHER STATE AGENCIES

A number of state agencies, in addition to DEP, make decisions affecting land and water uses in coastal areas.

Unlike the operating divisions of DEP, these agencies are bound by the Rules on Coastal Resource and Development Policies only when their activities require a DEP permit. Only the Department of Energy (DOE) is specifically obligated to follow the adopted Coastal Resource and Development Policies, pursuant to a Memorandum of Understanding with DEP.

The sections which follow describe those activities of other state agencies which affect coastal land or water uses and which could, if conducted consistently with the Coastal Policies, enhance the program's effectiveness.

All major State public construction projects will be consistent with the coastal policies by virtue of the Governor's Executive Order 53 of 1973, which requires that any State project costing \$1.0 million or more, or State projects costing less than \$1.0 million which by reason of their nature or location have the potential for substantial adverse environmental impacts, be first reviewed by DEP for environmental impacts.

Department of Agriculture - The Department of Agriculture shares with DEP the regulatory responsibility of the Soil Erosion and Sediment Control Act (N.J.S.A. 4:24-39 et seq. as amended). The Act is administered by the State Soil Conservation Committee, which includes the Commissioners of the two Departments, and local Soil Conservation Districts. The Act controls erosion and sediment during the construction phase of development.

It mandates site plan review of proposed sediment control practices for all construction, excluding individually developed single family homes, resulting in a soil disturbance of at least 5,000 square feet. Reviews are conducted according to regulations (N.J.A.C. 2:90-13) describing standards for techniques to establish ground protection and control of runoff, such as diversions, sediment basins, slope protection structures and channel stabilization. The Coastal Resource and Development Policies pertaining to soil are based on the Act, thereby assuring conformity between the two.

In addition, local Soil Conservation Districts and the South Jersey Resource Conservation and Development Council, with technical assistance from the USDA-Soil Conservation Service, have worked with several municipalities on dune stabilization and dune management.

Department of Community Affairs* - The Department of Community Affairs (DCA) is responsible for the administration of a broad range of social programs, including those affecting housing. The Department does not, however, play a significant role in the formal management system of the Coastal Program, with the possible exception of the activities of its Housing Finance Agency.

Under Section 701 of the Federal Housing and Community Development Act and the State law which established the Division of State and Regional Planning (N.J.S.A. 13:1B-15.50), DCA has prepared a State Development Guide Plan (Preliminary Draft - September 1977). The major policies of the Guide Plan are: Maintain the quality of the environment, preserve the open space necessary for an expanding population, provide space and services to support continued economic expansion, and enhance the quality of life in urban areas. These policies, and the regulatory and funding decisions made under them, are consistent with the proposed coastal policies.

*see update sheet

DCA's Housing Finance Agency (HFA) provides financing for private housing, and makes its decision on the basis of the Guide Plan and other State policies. Because all HFA proposals involve projects with costs exceeding \$1.0 million, DEP is able to use Executive Order 53 to insure that they are designed consistently with the Coastal Resource and Development Policies. In addition, HFA-financed projects with 25 units or more require a CAFRA Permit, and all HFA-financed projects in the coastal zone outside the CAFRA area will require either a Water-front Development or Wetlands permit.

Department of Labor and Industry - The Department of Labor and Industry's (DLI) regulatory programs are, for the most part, not land-use related. However, the Department, through its Office of Business Advocacy, plays an important role in siting and financing business and industry in the State. As part of this effort, DLI assists industrial developers in obtaining the State permits necessary for siting and operating plants, and will therefore work with DEP on industrial siting decisions. In addition, the Department can speed the development review process by steering potential developers towards sites on which development would be consistent with the Coastal Policies.

Economic Development Authority - The Economic Development Authority (EDA), arranges low-interest, long-term financing for projects (including commercial fisheries), and is authorized to enter into contracts and buy and sell land and buildings. It is governed by a seven member board which includes the Commissioner of DEP. The Authority works closely with the Division of Economic Development within the Department of Labor and Industry. In 1977, it provided \$265 million for low interest loans throughout the State. DEP is working with EDA to explore the opportunity for consistency between EDA funding criteria and the proposed Coastal Policies. This could lead to coordinated planning for industrial development.

Department of Transportation - The Department of Transportation (DOT) is responsible for the planning, construction, and maintenance of state highways, the review and funding of local highway projects, the planning of state and regional transportation strategies, and the regulation of some transportation facilities. DOT construction projects affecting DEP-regulated lands or resources are subject to DEP regulatory authority, insuring their conformity with the coastal policies. As part of their planning responsibilities, DOT and DEP have a working relationship for planning in coastal areas.

Department of Health - The Department of Health shares with DEP the regulatory responsibilities for shellfish control activities including depuration and for recreational sanitation. Additionally, the Department of Health is responsible for the administration of a broad range of health programs, including health facilities planning, which may impact on the development of coastal policies.

COUNTY LAND USE AUTHORITY

The major role played by counties in the coastal program management system is that of planners. County land use authority is limited to the review and approval of subdivision and site plans for traffic impacts on county roads, and for drainage impacts on county facilities (see N.J.S.A. 40:27-1 et seq.). Most counties have prepared master plans or studies analyzing county issues and concerns to guide their decision making. The Municipal Land Use Act (N.J.S.A. 40:55D-1 et seq.) mandates coordination between county and municipal authorities by requiring that municipal master plans include a statement concerning the relationship between the municipal plan and the county master plan.

Other county functions which could help to carry out a coastal program include the 208 water quality planning responsibility some counties have undertaken and the counties' responsibility to prepare Solid Waste Management plans. Under the County Environmental Health Act of 1978, each county can formulate and enforce environmental health ordinances to control air pollution, solid waste, noise and water pollution. These ordinance must be consistent with applicable state laws, rules and regulations. The Act gives the Commissioner of DEP authority to delegate administration of the environmental health laws it administers to the counties. To date, this authority has not been exercised, nor have the Act's programs been funded.

Most coastal counties have been actively involved in the planning and development of the New Jersey's coastal program. For two years, DEP sponsored a state-county coastal coordination project with every county in the Bay and Ocean Shore Segment and Salem, Camden, Gloucester, Burlington (one year), Middlesex, Hudson and Union (one year) counties. Using funds made available under the federal Coastal Zone Management Act, DEP contracted with the counties for the provision of information and analysis which is being used in the development of the Coastal Program. The counties have generated ideas, and in some cases, suggested a boundary and policies for their section of the coastal zone.

MUNICIPAL LAND USE AUTHORITY

New Jersey's municipalities derive their power to enact and enforce zoning ordinances from the State, and possess extensive regulatory authority over land uses. The Municipal Land Use Law, (NJSA 40:55D-1 et seq.), requires municipal planning boards to prepare master plans to guide municipal land use. It requires that all municipal zoning ordinances be consistent with or designed to carry out the land use element of the master plan.

The State and municipality act as a check on each other in areas subject to State land use regulatory authority. A locally approved proposal cannot be constructed without receipt of relevant state approvals, and a State-approved project, with certain exceptions in which the State has eminent domain authority, must receive appropriate local approvals.

The Division of Coastal Resources has been soliciting municipal participation in the development of the coastal program for years by sharing draft documents with municipal officials and holding public meetings throughout the state. In addition, the Division will continue to encourage municipalities to review and comment on State coastal permit applications. Active involvement of the municipalities and consistency between local plans, ordinances and policies and state Coastal Policies is important for the successful development and full implementation of the Coastal Program.

REGIONAL LAND USE AUTHORITY

Delaware River Area

In the Delaware River area, authority to implement the Coastal Policies is complemented and enhanced by the Delaware River Basin Commission (DRBC). The DRBC was created in November 1961 upon enactment of concurrent legislation by the Congress of the United States and by the respective legislatures of the States of Delaware, New Jersey, and New York, and the Commonwealth of Pennsylvania. It is charged with the responsibility for development and effectuation of plans, policies

and projects relating to the water resources of the multi-state Delaware River Basin. The members of the DRBC are the Governors of the signatory States and one commissioner appointed by the President of United States. The Governors appoint alternates to the act as their representatives. The Commission exercises its powers and duties within the limits of the Delaware River Basin, defined in the Delaware River Basin Compact as the area of drainage into the Delaware River and its tributaries, including Delaware Bay (see Figure 12).

Under the provisions of the Compact, DRBC has broad powers in relation to management of water supplies, water quality, pollution control, flood protection, watershed management, recreation, fish and wildlife, hydro-electric power, and regulation of water withdrawals and diversions. Under Section 3.8 of the Compact, no project having a substantial effect on the water resources of the basin may be undertaken without the Commission's approval. Under Article 11, all public projects affecting the water resources of the Delaware Basin must be planned in consultation with the Commission.

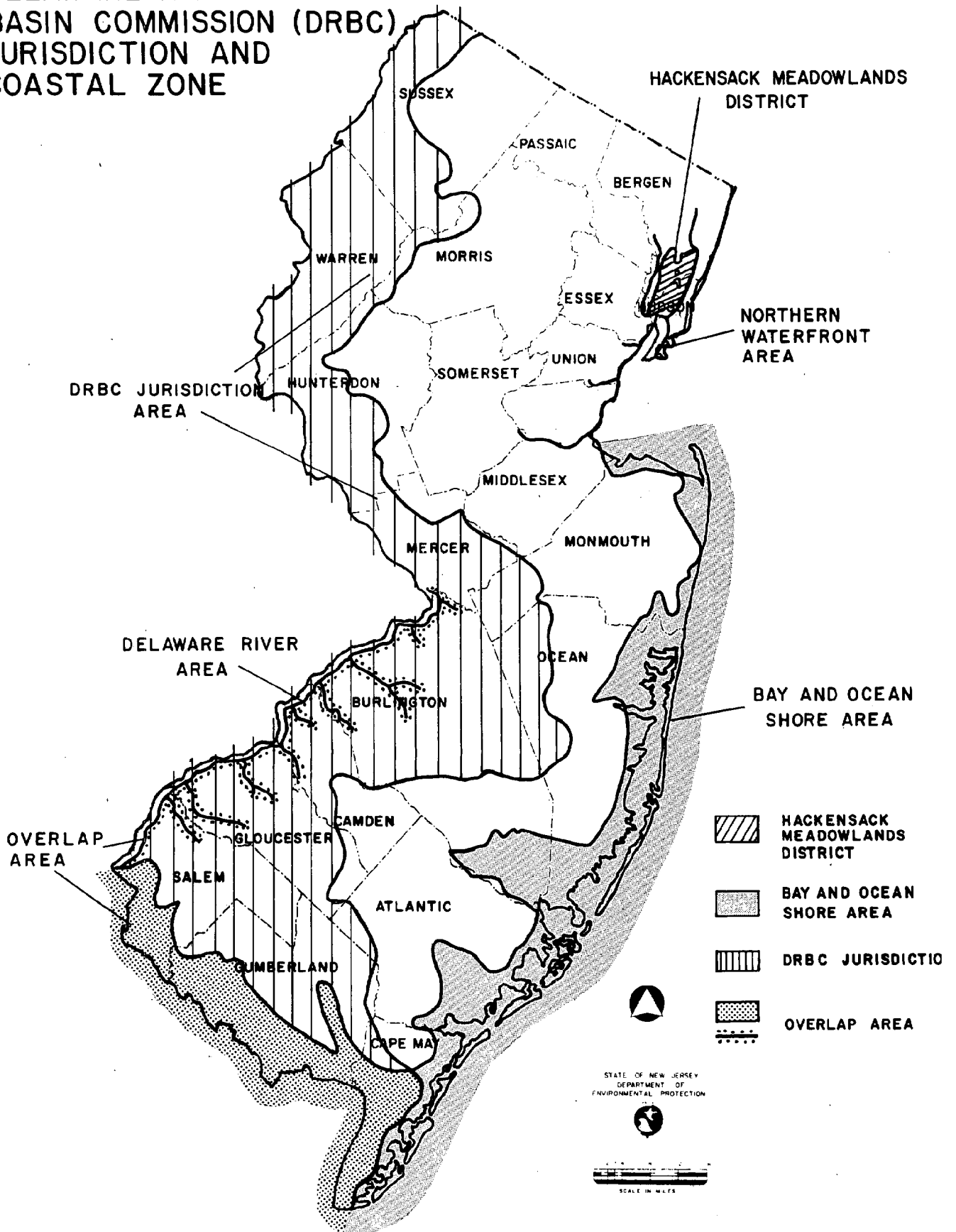
The Delaware River Basin Compact requires that the DRBC develop and adopt a comprehensive plan for the water resources of the Basin. The Comprehensive Plan differs from the usual "master plan" in that it serves not only as a guide for development of the water resources, but also as a management and regulatory mechanism. It sets water quality standards for the basin, which together with state standards are the criteria for water quality certification of NPDES permits. It also establishes an interstate waste load allocation program for the Delaware River Estuary. In October, 1979, the DRBC produced a report titled The Delaware River Basin containing generalized recommendations and strategy for updating the Comprehensive Plan. The report was the product of a comprehensive basinwide (Level B) study of the basins's water resources.

The Comprehensive Plan includes Commission administrative actions and determinations, and the Plan continues to grow in scope as the Commission regularly adds new policies, criteria, standards and projects. For example, in 1978 the Commission adopted a wetlands policy similar in substance to the State's proposed Wetlands Special Area Policy, as part of the Comprehensive Plan. The plan, therefore, goes beyond the presentation of programs and facilities for meeting various needs; it includes a codification of administrative decisions governing water resources use, development and conservation.

DEP hopes to modify an existing administrative agreement between DRBC and DEP for the purpose of coordinating DEP coastal permit programs with DRBC project review in the Coastal Zone. Although such an agreement is not essential for federal approval of the New Jersey Coastal Management Program, it would supplement the coastal permit programs by ensuring that DRBC, upon the request of DEP, will use its authority under Section 3.8 of its Compact to review proposed projects significantly affecting the water resources of the Delaware River Basin. A recently completed coordination project between DRBC and DEP-DCR provided input to the Department in drafting the proposed Coastal Resource and Development Policies and concluded that the policies are not in conflict with the DRBC Comprehensive Plan. The administrative agreement would ensure that DRBC will consider adopted Coastal Resource and Development Policies to the maximum extent feasible as criteria in its project review decisions. The Department will also work with DRBC and the Delaware and Pennsylvania coastal management programs to develop a unified set of coastal policies for consideration for future incorporation into the DRBC Comprehensive Plan.

Figure 12

OVERLAP BETWEEN DELAWARE RIVER BASIN COMMISSION (DRBC) JURISDICTION AND COASTAL ZONE



Another regional agency in the Delaware River Area is the Delaware River Port Authority (DRPA). The DRPA is a self-sustaining bi-state public agency of Pennsylvania and New Jersey. It owns and operates four bridges which span the Delaware River connecting Southeastern Pennsylvania and Southern New Jersey, and through its subsidiary PATCO operates the Lindenwold High Speed Line. Although the Delaware River Port Authority does not own or operate any port facilities along the Delaware, it promotes trade and commerce for the ports of the Delaware River, collectively known as Ameriport.

As part of its efforts to plan for and promote the Delaware River Port area, the Delaware River Port Authority is currently working to develop a Delaware River Regional Port Planning Study which will be funded by the federal Maritime Administration. The study will make recommendations concerning development of twenty-seven sites wholly or partly within the New Jersey coastal zone. DEP has analyzed these sites and determined that under the Rules on Coastal Resource and Development Policies water dependent development would be acceptable provided Special Area, Use and Resource Policies are complied with. On two sites the presence of wetlands substantially limits the developable area. A map of the twenty-seven sites and DEP comments on their acceptability for development are available at DEP-DCR offices in Trenton. DEP will continue to coordinate closely with DRPA as their regional port planning study progresses.

Although the DRPA is specifically exempted from State regulation (N.J.S.A. 32:3-6), it must obtain permission for the acquisition or use of State-owned tidelands from the Tidelands Resource Council.

The Delaware River and Bay Authority was created by an interstate compact between New Jersey and Delaware. The Authority operates the Delaware Memorial Bridge and the Cape May-Lewes Ferry, and is empowered to operate marine terminals.

Northern Waterfront Area

In most of the northern waterfront, the Coastal Policies are enforceable only through the Waterfront Development and Tidelands Management programs. Near the Raritan Bay, DEP also has regulatory authority over development in mapped coastal wetlands. In addition, DEP will fund capital spending projects only when they are consistent with the Coastal Policies.

The Coastal Policies can be further implemented, however, through coordination with several interstate and regional agencies having jurisdiction in the area. One of these agencies, the Port Authority of New York and New Jersey, is a self-supporting corporate agency formed in 1921 by the States of New York and New Jersey "to deal with the planning and development of terminal and transportation facilities, and to improve and protect the commerce of the Port District". The Port District encompasses a large area surrounding New York harbor and includes all of the Northern Waterfront coastal zone.

The Authority's operations are not exempt from DEP's regulatory and tidelands authority (see N.J.S.A. 32:1-35.11 and 32:1-32.35).

Because of the Port Authority's active involvement in the development and management of port, transportation and industrial facilities and its mandate to protect and promote commerce through the Port of New York and New Jersey, the Division of Coastal Resources is working closely with the Authority in policy

development. The planning and development of large northern waterfront sites by this interstate agency could be an important step toward revitalization of urban waterfront areas.

In 1978, legislation was enacted in New Jersey and New York enabling the Port Authority to undertake an industrial park development program intended to revitalize the inner cities of the Port District and to create an estimated 30,000 jobs over the next ten years. The Port Authority program to develop sites for manufacturing plants in the hard-pressed central cities would require an investment of more than \$1 billion in public and private funds over the next ten years, of which the Port Authority would invest up to \$400 million on a self-supporting basis.

The Interstate Sanitation Commission was formed in 1936 by the states of New Jersey, New York and Connecticut to control pollution in the tidal waters of the New York metropolitan area. More recently the Commission has become concerned with air pollution as well, and monitors and conducts research concerning both air and water quality. Under its compact (Article 17 as revised October 1970), the Commission may "develop and, after public hearing place in force ... classifications of waters and effluent standards within the District". A NPDES permit may not be issued for any discharge which would violate the Commission's standards.

Waterfront planning and management in the Northern Waterfront Area may also benefit from the Hudson River Waterfront Study, Planning, and Development Commission.* This Commission was established by Governor Byrne in Executive Order No. 69 on January 11, 1979 to "conduct a thorough study and investigation of the various alternatives for the planning and redevelopment of the Hudson River Waterfront South of the George Washington Bridge". The Commission is composed of State legislators, representatives of Hudson and Bergen Counties, the mayors of 15 waterfront municipalities in those counties and other citizens appointed by the Governor. The Commission has released a Working Draft Report (March 1980) and will present its recommendations, including a proposal for a permanent regional agency which will prepare a Riverfront Plan to guide the redevelopment and revitalization of the waterfront, to the Governor in September 1980. DEP's Bureau of Coastal Planning and Development serves as staff to the Commission.

Federal Agency Authority

Section 307 of the FCZMA allows states with approved coastal management programs to object to direct federal activities, federal permits or funding activities in or affecting the coastal zone which would violate elements of the Coastal Program. Also covered by Section 307 are federally licensed and permitted activities described in Outer Continental Shelf (OCS) exploration plans.

The meaning of "Federal Consistency" has been subject to much debate since it was first included in the Coastal Zone Management Act in 1972. At a minimum, it leads to increased coordination between DEP and federal agencies near the coast. It increases opportunities for more efficient and effective review of coastal projects which require both state and federal approvals and it establishes a formal process for resolution of differences.

Once the State has an approved coastal management program, any OCS plan for exploration, development or production from any tract affecting New Jersey's coast would have to be certified as consistent with the State Coastal Management Program. This is now in effect as a consequence of federal approval for the Bay

*see update sheet

and Ocean Shore Segment. As opposed to past procedures which only allowed the State to exercise review and comment on OCS plans, the consistency provisions go one step further by allowing the State to enforce its coastal policies through a consistency certification process.

Federal consistency applies only after a State's coastal program is approved and cannot be used by a state to help demonstrate that it has sufficient authority to meet the standards of the federal Coastal Zone Management Act. Federal Consistency is discussed in detail in Chapter Five.

Public Participation

Public participation is an essential element in the development of a viable coastal management program. The New Jersey program offers opportunities for participation not only in program development, but also in regulatory decision-making and continued planning.

The three coastal permit programs (CAFRA, Wetlands, and Waterfront Development) all have public notice and hearing requirements, providing the opportunity for public participation in the implementation of the coastal policies. DEP will ensure public notice of pending applications through notification of the appropriate county planning board, county environmental commission, municipal planning board, county environmental commission, soil conservation district, and the Delaware Valley Regional Planning Commission and Tri-State Regional Planning Commission. In addition, owners of land adjacent to the site proposed for development will be informed of the application. All pending applications are listed in the DEP Bulletin which is distributed free and has a current circulation of 1,600. The Department is also cooperating with the "coast watch" program, sponsored by the American Littoral Society, to inform more people about pending coastal decisions and other events.

DEP holds a public hearing near the site of a proposal for every CAFRA permit application, and for major Wetlands and Waterfront Development permit applications. In addition, any interested person can review DEP's file on a pending application and submit written comments. Decisions to lease or sell tidelands are made by the Tidelands Resource Council at meetings which are open to the public.

DEP will continue to involve coastal residents, workers and visitors in planning for the future of the coastal zone. This involvement takes several forms, and the Department will remain open to additional public participation techniques which may be suggested. Substantive changes in the Coastal Management Program and its policies will be subject to the notice and hearing requirement of both the federal regulations and the New Jersey rule-making process.

The Division of Coastal Resources will continue to publish The Jersey Coast several times each year to inform interested people of future public meetings, available reports, and coastal planning and regulatory activities. Division staff will continue to make themselves available to meet with interested groups and the Division will continue to convene a series of public meetings throughout the coastal zone at least twice a year. In addition, Division staff will continue to meet periodically with the leaders of statewide environmental groups, builders groups, and other groups which express interest.

Part of public participation is public education, and DEP will continue to prepare and to assist others in preparing informative, understandable publications about the coast and the coastal zone management program. The Department will supplement governmental publications with the use of newspapers, magazines, radio and displays in public places such as libraries, shopping areas and conventions.

Conflict Resolution - Appeals

The permit decisions made under the New Jersey Coastal Management Program, as described in this Chapter, can be appealed administratively. A CAFRA permit decision can be appealed by any interested person within 21 days of the final DEP action, to the DEP Commissioner or to a Coastal Area Review Board composed of the Commissioners of Environmental Protection, Community Affairs, and Labor and Industry. The decision of the Commissioner or of the Review Board can be further appealed through the courts. A Wetlands permit decision may be appealed to the DEP Commissioner and then to the courts. A Waterfront Development permit decision may be appealed to the Tidelands Resource Council (DEP has proposed to change the procedure so appeals will be to the Commissioner), and then to the courts.

There is no administrative process for appealing the decision of a State agency to adopt a rule, but the adoption of any rules, including the Rules on Coastal Resource and Development Policies, may be challenged by bringing an action in the Appellate Division of the New Jersey Superior Court.

The Department of Energy (DOE) may appeal decisions affecting the construction or location of an energy facility to the Energy Facility Review Board. Under the Department of Energy Act, the Board will be called into existence by the Department of Energy if it disagrees with the decision of any state agency to grant or deny a permit for an energy facility. The Memorandum of Understanding in Appendix C explains this process. It is important to note, however, that between July 1977 and the present, the DEP/DOE conflict resolution process has not been necessary.

The Management System for the Coastal Program does not appear likely to generate other conflicts which will require a resolution mechanism. If a proposal requires approval under several laws with different sets of criteria, the applicant will have to meet them all. A project subject to the Coastal Management Program and encouraged by the plans or actions of another agency could not be constructed unless it received the required coastal permits. At the same time, a project which conforms with all the Coastal Resource and Development Policies could not be constructed until the applicant received all other required state, federal, and municipal approvals.

UPDATE (February 1980)

1. Page 26, Division of Environmental Quality: DEP's responsibilities for spill control response, emergency response, and the cleaning up of hazardous waste dumpsites were transferred to a newly created Division of Hazard Management in December, 1980. The Division of Environmental Quality maintains the other responsibilities described on page 26.
2. Page 45, Coastal Management Program Implementation Funds: The 1980 amendments to the federal Coastal Zone Management Act added a new section, 306A, authorizing financial assistance to eligible states to support the acquisition of public access areas, to promote low-cost shorefront construction, and to fund small scale redevelopment in urban ports and waterfronts. Eligible states must have an approved program, and be making satisfactory progress toward achieving the coastal management objectives listed in section 303 of the Federal Act. Regulations to implement this section are being prepared, but no funds have been appropriated.
3. Page 51, Pinelands Protection: The final Pinelands Comprehensive Management Plan was approved by the Governor in December, 1980, and became effective in January. The Plan was also approved by the Secretary of the Interior in January 1981. Those changes that were made between the draft and final versions insured the consistency of the Pinelands Plan and the Coastal Management Program.
4. Page 58, Department of Community Affairs: A revised draft of the State Development Guide Plan was issued in May, 1980.
5. Page 64, Hudson River Waterfront Study, Planning and Development Commission: The Commission presented its final report to the Governor in October, 1980. The report recommended the creation of a Hudson River regional authority, with binding land use and planning authority for the Hudson waterfront and the Palisades. The report also contained policy recommendations, consistent with the Coastal Resource and Development Policies, favoring the creation of linear pathways and waterfront parks, the protection of environmental and cultural resources (including the preservation of the Palisades), and the promotion of labor-intensive industry and port-related development.

Legislation to create a modified version of the regional authority was introduced in the Legislature in the fall, 1980 session.

Let's protect our earth



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

